RENTAL HOUSING CONVERSION AND SALE

(Council act 3-204)

P96-67

OVERSIGHT HEARING AND MARKUP

BEFORE THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

H. CON. RES. 420—TO DISAPPROVE RENTAL HOUSING CONVERSION AND SALE ACT OF 1980

SEPTEMBER 4, 1980

SERIAL NO. 96-18

Printed for the use of the Committee on the District of Columbia

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RENTAL HOUSING CONVERSION AND SALE
(Council Act 3-204)

H. CON. RES. 420—CONCURRENT RESOLUTION OF DISAPPROVAL

THURSDAY, SEPTEMBER 4, 1980

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The committee met, pursuant to notice at 10 a.m. in room 1310 of the Longworth House Office Building, Hon. Ronald Dellums presiding.

Present: Representative Dellums, Delegate Fauntroy, Representatives Barnes, McKinney, and Fenwick.

Also present: Elizabeth D. Lunsford, general counsel; Robert Brauer, staff assistant; Rod Kuckro, legal staff assistant; Dale MacIver, staff counsel; Harry M. Singleton, minority chief counsel; Christopher Daly and Karen Ramos-Bates, minority staff assistants.

The CHAIRMAN. The full committee on the District of Columbia will come to order. The committee is holding a hearing on whether Congress should veto legislation adopted by the Council of the District of Columbia. The legislation in question is Council Act of 1980, which was transmitted to Congress on June 30, 1980.

On August 25, 1980, our colleague, Representative Charles Wilson of Texas introduced House Concurrent Resolution 420, disapproving the Council Act and the Speaker of the House referred the matter to this committee for further action. Because the Council Act was submitted to Congress 2 months ago the congressional review period has almost expired and the act is scheduled to become law next week unless disapproved by the Congress.

[H. Con. Res. 420 and the Council Act 3-204, report and staff memorandum thereon follow:]

96TH CONGRESS
2D SESSION

H. CON. RES. 420

Disapproving the action of the District of Columbia Council in approving the Rental Housing Conversion and Sale Act of 1980.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 25, 1980

Mr. CHARLES WILSON of Texas submitted the following concurrent resolution; which was referred to the Committee on the District of Columbia

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CONCURRENT RESOLUTION

Disapproving the action of the District of Columbia Council in approving the Rental Housing Conversion and Sale Act of 1980.

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives disapproves of the action of the District of Columbia Council described as follows: The Rental Housing Conversion and Sale Act of 1980 (D.C. Act 3–204), passed by the Council of the District of Columbia on June 17, 1980, signed by the Mayor on June 27, 1980, and transmitted to the Congress pursuant to section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act on June 30, 1980.

O

STAFF MEMORANDUM

The Rental Housing Conversion and Sale Act of 1980, D.C. Act 3-204, To Amend the Law with Respect to the Conversion of Rental Housing, Relocation and Housing Assistance Payments, and Tenant Opportunity to Purchase Converted Rental Units

On June 27, 1980, the Mayor of the District of Columbia signed into law D.C. Act 3-204.

It is the purpose of the Act to:

(a) Discourage the displacement of tenants through conversion or sale of rental property, and to strengthen the bargaining position of tenants towards that and without unduly interfering with the rights of property owners to the due process of law;

(b) Preserve rental housing which can be afforded by lower income tenants in the District;

(c) Prevent lower income elderly tenants from being involuntarily displaced when their rental housing is converted;

(d) Provide incentives to owners, who convert their rental housing, to enable low income non-elderly tenants to continue living in their current units at cost they can afford;

(e) Provide relocation housing assistance for lower income tenants who are displaced by conversions;

(f) Encourage the formation of tenant organizations; and

(g) Authorize necessary actions consistent with the findings and purposes of this Act.

These statutory purposes are embodied, specifically, within Title II, The Conversion of Rental Housing to Condominium or Cooperative Status Act of 1980; Title III, the Relocation and Housing Assistance Act of 1980; and Title IV, the Tenant Opportunity To Purchase Act of 1980.

These purposes were developed by the Council of the District of Columbia pursuant to investigation and documentation by two legislative study commissions: the D.C. Legislative Commission on Housing and the Emergency Commission on Condominium and Cooperative Conversion.

The legislative findings of the Council of the District of Columbia are as follows:

(a) There is a continuing housing crisis in the District of Columbia;

(b) There is a severe shortage of rental housing available to the citizens of the District of Columbia. The percentage of all rental housing units within the District which are vacant, habitable, and available for occupancy es than five percent (5%) which generally considered an indication of a serious shortage of renta housing units. The vacancy rate is substantia ly lower among units which can be afforted by lower income tenants as evidenced by serious overcrowding in private units and a waiting list for public housing in excess of five thousand (5,000) households.

(c) Conversion of rental units to condominiums or cooperatives depletes the rental housing stock. Since 1977, more than eight thousand (8,000) rental units in the District of Columbia have been converted to condominiums or cooperatives, more than (9,000) additional units have not yet been converted but have been declared eligible to do so and applications for six thousand (6,000) more units are pending. The eight thousand (8,000) units which have been converted represent 4.5% of the D.C. 1977 rental stock, and the fifteen thousand (15,000) units subject to conversion represent an additional 8.3%.

(d) Lower income tenants, particularly elderly tenants, are the most adversely affected by conversions since the after conversion costs are usually beyond their ability to pay. This results in forced displacement, serious overtrowding, disproportionately high housing costs, and the loss of additional affordable rental housing stock.

(e) The D.C. Housing Ass stance Plan shows that 43,521 renter households and 14,215 homeowner households are in need of housing assistance in the District.

(f) Very few rental units are being constructed or vacant units being made available for rental occupancy. More units are being converted to other uses of demolished than are being made available for rent.

(g) Experience with conversions ince passage of the Condominium Act of 1976 and the Condominium and Cooperative Conversion Stabi ization Act of 1979 has demonstrated that the previous conversion controls have not been sufficiently effective in preserving rental housing, particularly for those who cannot afford honeownership. Based on that experience and the conclusions of the legislative study commissions, tenants who are most directly affected by the conversion should be provided with sufficient accurate information about the relative advantages and disadvantages to conversion of rental housing and should have a voice in the decision whether or not their rental housing should be converted. These control are necessary to more effectively assure that housing will be preserved at a cost which can be afforded by current tenants who would otherwise be involuntarily displaced and forced into overcrowded or otherwise substandard housing conditions.

(h) These additiona conversion controls are required to preserve the public peace, health, safety, and general welfare.

Some salient provisions of the legislation include a provision outlining the steps an owner must take before converting a housing accommodation to condominium.

1. He must show compliance with title regulating conversion.
2. He must pay the necessary fees and taxes.
3. He must give the current tenants 3 months notice of intent to convert.
4. He must inform the tenants of their rights as published in the D.C. Register.
5. He must give the tenants the first opportunity to purchase the building.
6. He cannot coerce or force the tenants into deciding whether to purchase or relocate.
7. An owner shall not evict or send notices to vacate to an elderly tenant with an annual household income of less than $30,000 per year.
8. An owner shall provide a relocation payment to each tenant who does not purchase a unit or share ... the amount shall be no less than $125.00 and no more than $500.00.
9. The owner must afford the tenant reasonable time in order to secure financing and financial assistance prior to settlement. He shall not require less than 60 days after the date of contracting.
10. A reasonable period to negotiate a contract of sale shall be afforded the tenants not less than 60 days.

This legislation also directs the Mayor to provide relocation services and housing assistance payments for three years to each low-income tenant. The amount, eligibility requirements and method of payments are specifically outlined. Revenues deposited from the Condo or Cooperative fee shall be used to assist household in relocation.

The tenants have the following rights and liabilities:

1. A tenant or tenant organization has the right of first refusal during the 15 days after an owner has received a valid sales contract or other written offer to purchase from a prospective purchaser.
2. A tenant may not waive his right to receive an offer.
3. A tenant may exercise his rights in conjunction with a third party.
4. An owner shall not require the tenant to pay a deposit of more than 5% of the contract sales price.
5. An aggrieved tenant, tenant organization or owner may seek enforcement through a civil action.
6. The intentional failure of a tenant or an owner to comply with the contract shall be evidence of bargaining without good Faith.

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D. C. 20004

JUN 30 1980

4732

Honorable Thomas P. O'Neill, Jr.
Speaker of the House
U. S. House of Representatives
Washington, D. C. 20515

Re: D.C. ACT 3-204: "Rental Housing Conversion and Sale Act of 1980", and Report.

Date of Council Action 6/17/80

Dear Mr. Speaker:

The above named act is hereby transmitted in accordance with section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198.

To begin the count of the 30-day review by Congress, please acknowledge receipt of this document on the copy attached.

Sincerely,

ARRINGTON DIXON
Chairman

Enclosures

Receipt Acknowledged Rita Hankins *Date* 6/20/80

AN ACT

D.C. ACT 3-204

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUN 27 1980

To amend the law with respect to the conversion of rental housing, relocation and housing assistance payments, and tenant opportunity to purchase converted rental units.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rental Housing Conversion and Sale Act of 1980".

CODIFICATION
D.C.Code,
title 45,
chapter 16A

TITLE I

LEGISLATIVE FINDINGS AND PURPOSES AND DEFINITIONS

Sec. 101. Findings.

D.C.Code,
sec. 45-1699.101

The Council of the District of Columbia finds that:

(a) There is a continuing housing crisis in the District of Columbia.

(b) There is a severe shortage of rental housing available to the citizens of the District of Columbia. The percentage of all rental housing

units within the District of Columbia which are vacant, habitable, and available for occupancy is less than five percent (5%) which is generally considered an indication of a serious shortage of rental housing units. The vacancy rate is substantially lower among units which can be afforded by lower income tenants as evidenced by serious overcrowding in private units and waiting list for public housing in excess of five thousand (5000) households.

(c) Conversion of rental units to condominiums or cooperatives depletes the rental housing stock. Since 1977, more than eight thousand (8000) rental units in the District of Columbia have been converted to condominiums or cooperatives, more than nine thousand (9000) additional units have not yet been converted but have been declared eligible to do so and applications for six thousand (6000) more units are pending. The eight thousand (8000) units which have been converted represent 4.5% of the District of Columbia's 1977 rental stock, and the fifteen thousand (15,000) units subject to conversion represent an additional 8.3%. These

trends have been thoroughly investigated and documented by two legislative study commissions: the D.C. Legislative Commission on Housing and the Emergency Commission on Condominium and Cooperative Conversion. The latter commission reported policy proposals, many of which are contained in this act.

(d) Lower income tenants, particularly elderly tenants, are the most adversely affected by conversions since the after conversion costs are usually beyond their ability to pay, which results in forced displacement, serious overcrowding, disproportionately high housing costs, and the loss of additional affordable rental housing stock. The threat of conversion has caused widespread fear and uncertainty among many tenants, particularly lower income and elderly tenants.

(e) The District of Columbia Housing Assistance Plan shows that 43,521 renter households and 14,215 homeowner households are in need of housing assistance in the District.

(f) Very few rental units are being constructed or vacant units being made available

for rental occupancy. More units are being converted to other uses or demolished than are being made available for rent.

(g) Experience with conversions since passage of the Condominium Act of 1976 and the Condominium and Cooperative Conversion Stabilization Act of 1979, effective February 23, 1980 (D.C. Law 3-53) has demonstrated that the previous conversion controls have not been sufficiently effective in preserving rental housing, particularly for those who cannot afford homeownership. Based on that experience and the conclusions of the legislative study commissions, tenants who are most directly affected by the conversion should be provided with sufficient accurate information about the relative advantages and disadvantages to conversion of rental housing and should have a voice in the decision whether or not their rental housing should be converted. These controls are necessary to more effectively assure that housing will be preserved at a cost which can be afforded by current tenants who would otherwise be involuntarily displaced and forced into

overcrowded or otherwise substandard housing conditions.

(h) These additional conversion controls are required to preserve the public peace, health, safety, and general welfare.

Sec. 102. Purposes. D.C.Code, sec. 45-1699.102

In enacting this act, the Council of the District of Columbia supports the following statutory purposes:

(a) To discourage the displacement of tenants through conversion or sale of rental property, and to strengthen the bargaining position of tenants toward that end without unduly interfering with the rights of property owners to the due process of law.

(b) To preserve rental housing which can be afforded by lower income tenants in the District.

(c) To prevent lower income elderly tenants from being involuntarily displaced when their rental housing is converted.

(d) To provide incentives to owners, who convert their rental housing, to enable low income non-elderly tenants to continue living in their current units at costs they can afford.

(e) To provide relocation housing assistance for lower income tenants who are displaced by conversions.

(f) To encourage the formation of tenant organizations.

(g) To authorize necessary actions consistent with the findings and purposes of this act.

Sec. 103. Definitions.

D.C.Code, sec. 45-1699.103

As used in this act the term:

(1) "Condominium" has the same meaning as in section 102(d) of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Code, sec. 5-1202(d)).

(2) "Condominium Act" means the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Code, sec. 5-1201 et seq.).

(3) Condominium Conversion" is the issuance of notice of filing pursuant to section 406 (a) of the Condominium Act (D.C. Code, sec. 5-1265(a)).

(4) "Conversion" shall include cooperative conversions and condominium conversions as defined in this act.

(5) "Cooperative" means a cooperative legally incorporated pursuant to the District of Columbia

Cooperative Association Act, approved June 19, 1940, (54 Stat. 480; D.C. Code, sec. 29-801 et seq.) or a cooperative corporation incorporated in another jurisdiction for the primary purpose of owning and operating real property in which its members reside.

(6) "Cooperative Act" means the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code, sec. 29-801 et seq.).

(7) "Cooperative Conversion" is the filing of articles of incorporation pursuant to the Cooperative Act.

(8) "District" means the District of Columbia government.

(9) "Head of household" means a tenant who maintains the affected rental unit as the tenant's principal place of residence, is a resident and domiciliary of the District of Columbia, and contributes more than one-half (1/2) of the cost of maintaining the rental unit. If no member of a household contributes more than one-half (1/2) of the cost of maintaining the rental unit, the members of the household who maintain the affected

rental unit as their principal place of residence, are residents and domiciliaries of the District of Columbia, and contribute to the cost of maintaining the rental unit may designate one (1) of themselves as the head of household. An individual may be considered a head of household for the purposes of this act without regard to whether the individual would qualify as a head of household for the purpose of any other law.

(10) "Household" means all of the persons living in a rental unit.

(11) "Housing accommodation" or "accommodation" means a structure in the District of Columbia containing one (1) or more rental units and the appurtenant land. The term does not include a hotel, motel, or other structure used primarily for transient occupancy and in which at least sixty percent (60%) of the rooms devoted to living quarters for tenants or guests are used for transient occupancy if the owner or other person or entity entitled to receive rents is subject to the sales tax imposed by section 114(a)(3) of the District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 112; D.C. Code, sec. 47-

2601(14.)(a)(3)) and the occupant of the rental unit has been in occupancy for less than fifteen (15) days.

(12) "Low-income" means a household with a combined annual income, in a manner to be determined by the Mayor, which may include federal income tax returns where applicable, totaling less than the following percentages of the lower income guidelines established pursuant to section 8 of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 662; 42 U.S.C. sec. 1437f) for a family of four (4) for the Washington Standard Metropolitan Statistical Area (SMSA), as the median is determined by the United States Department of Housing and Urban Development and adjusted yearly by historic trends of that median, and as may be further adjusted by an interim census of District of Columbia incomes by local or regional government agencies:

one-person household	50 percent
two-person household	60 percent
three-person household or a one- or two-person household containing a person who is 62 years of age or older or who is handicapped	90 percent
four-person household	100 percent
five-person household	110 percent
more than five-person	

household 120 percent

(13) "Mayor" means the Mayor of the District of Columbia or the designated representative of the Mayor.

(14) "Owner" means an individual, corporation, association, joint venture, business entity and its respective agents, who hold title to the housing accommodation unit or cooperative share.

(15) "Rental Housing Act" means the Rental Housing Act of 1977, effective March 15, 1978 (D.C. Law 2-54; D.C. Code, sec. 45-1580 et seq.), or any successor rent control act.

(16) "Rental unit" or "unit" means only that part of a housing accommodation which is rented or offered for rent for residential occupancy and includes an apartment, efficiency apartment, room, suite of rooms, and single family home or duplex, and the appurtenant land to such rental unit.

(17) "Tenant" means a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy or benefits of a rental unit within a housing accommodation. The singular term "tenant" includes the plural.

(19) "Tenant organization" means an organization which represents at least a majority of the occupied rental units in the housing accommodation.

TITLE II

Sec. 201. Short Title. This title may be cited as the "Conversion of Rental Housing to Condominium or Cooperative Status Act of 1980".

Sec. 202. Conversions.

D.C.Code, sec. 45-1699.201

(a) Prerequisite to Conversion. An owner shall not convert a housing accommodation into a condominium or cooperative until the Mayor certifies compliance with the provisions of this title regulating conversions, that the conversion fee has been paid, that the certification fee has been paid, and that the owner has complied with the other requirements of this act. If the owner is a tenants organization which purchased the housing accommodation pursuant to the provisions of title IV, the conversion fee required by section 204 may be paid at the time of settlement on the individual units or shares.

Only an owner may request a tenant election to convert, send notice of intent to convert, or convert an accommodation. Certification of a conversion by the Mayor is not transferable to a subsequent owner.

Certification by the Mayor is effective for one hundred eighty (180) days: PROVIDED, That the Mayor shall extend the certification if a majority of the qualified voters consent. If the owner receives certification by the Mayor and does not convert within this period, the owner may not request another tenant election or certification by the Mayor for that accommodation for one (1) year from the date of expiration of the prior certification.

(b) Exemption. With the Mayor's approval, owners who certify their intent to convert a housing accommodation to a non-profit cooperative, with an appreciation of share value limited to a maximum of the annual rate of inflation, for low and moderate income persons as defined from time to time by the United States Department of Housing and Urban Development for the Washington Standard

Metropolitan Statistical Area (SMSA) may be exempt for this title.

Sec. 203. Tenant Election.

D.C.Code, sec. 45-1699.20

(a) Notice by Owner. An owner who seeks to convert shall provide each tenant and the Mayor a written request for a tenant election by first class mail and post the request for an election in conspicuous places in common areas of the housing accommodation. The written request shall include, at a minimum, a summary of tenant rights and obligations, a list of tenant voter qualifications and disqualifications, and sources of technical assistance as published in the D.C. Register by the Mayor. If Spanish is the primary language of a head of household, the owner shall provide a Spanish translation of the request to the head of household. An owner shall also provide the Mayor with a list of tenants residing in the housing accommodation.

(b) Notice by Tenant Organization. Within thirty (30) days of receipt of the owner's request for an election, the tenants may establish a tenant organization, if one does not exist, and if a tenant organization exists or is established, it

shall provide each tenant, the owner, and the Mayor with written notice of the election by first class mail and by conspicuous posting in common areas of the housing accommodation. Notice includes, at a minimum, the date, time and place of the election, and a summary of tenant rights, obligations, a list of tenant voter qualifications and disqualifications, and sources of technical assistance as published in the D.C. Register by the Mayor, if published.

(c) Conduct of the Election. Within sixty (60) days of receipt of an owner's request for an election, a tenant organization, if one exists or is established shall conduct an election. If notice of an election is not provided as required by this section, upon the request of a tenant or an owner, the Mayor shall provide notice and conduct an election within sixty (60) days of receipt of an owner's original request for an election.

(d) Qualified Voter. A head of household residing in each rental unit of the housing accommodation is qualified to vote unless no member of the household has resided in the

accommodation for at least ninety (90) days before the election, or unless a member of the household is an employee of the owner, or is a head of household whose continued right to remain a tenant is required by this act. The Mayor shall determine the eligibility of voters prior to the election and shall devise such forms and procedures as may be necessary to verify eligibility under this subsection.

(e) Absentee Ballot. A head of household unable to attend the election may submit to the Mayor or tenant organization prior to the election, a signed absentee ballot or sworn statement of agreement or disagreement with the conversion.

(f) Notification of Election Results. The tenant organization shall notify the owner and the Mayor of the results of the election within three (3) days. If the Mayor conducts the election, the Mayor shall notify the owner of the results of the election within three (3) days.

(g) Election Audit. The Mayor may monitor an election and take measures to preserve the integrity of the election process and result.

(h) Coercion Prohibited. An owner, tenant organization, or third party purchaser shall not coerce a household in order to influence the head of household's vote. Coercion includes, but is not limited to, the knowing circulation of inaccurate information; frequent visits or calls over the objection of that household; threat of retaliatory action; an act or threat not otherwise permitted by law which seeks to recover possession of a rental unit, increase rent, decrease services, increase the obligation of a tenant or cause undue or unavoidable inconvenience, harass or violate the privacy of the household; refusal to honor a lease provision; refusal to renew a lease or rental agreement; or other form of threat or coercion.

(i) Compliance Approved. If over fifty percent (50%) of the qualified voters vote in approval of conversion, or if an election is not held within sixty (60) days of receipt of an owner's request pursuant to subsection (a) or within such reasonable extension of time as the Mayor may consider necessary to hold an election in accordance with the procedural requirements of

this act, the Mayor shall certify compliance with this section for purposes of conversion.

(j) Compliance Not Approved. If fifty percent (50%) or less of the qualified voters vote in approval of conversion, or if an election is invalidated by the Mayor because of fraud or coercion in favor of conversion on the part of the owner, the Mayor shall not certify compliance with this section for purposes of conversion, and an owner may not request another tenant election for that accommodation for one (1) year from the date of the election.

(k) If an election is invalidated by the Mayor because of fraud or coercion on the part of the tenant organization, the Mayor shall conduct a new election within thirty (30) days of the invalidation.

Sec. 204. Conversion Fee. D.C.Code, sec. 45-1699.203

(a) Amount. An owner who seeks to convert shall pay the Mayor a conversion fee of four percent (4%) of the declared sales price for each unit or share within the housing accommodation. If a unit or share is sold for less than the declared price, that proportionate share of the

conversion fee shall be refunded to the owner. If a unit or share is sold for more than the declared sales price, the conversion fee on that increment of value becomes a lien on the property which the Mayor may collect in the manner provided for collection of property taxes.

(b) Reduction of Fee. The Mayor may reduce the conversion fee to fifty dollars ($50) per unit or share if the owner declares the intent to sell or provide a lease or option to lease for at least five (5) years to at least fifty-one percent (51%) of the tenants who, at the time of request for an election, are low-income and whose continued right to remain a tenant is not required by statute. To qualify for this reduction, a sale or lease cannot require monthly payments greater than existing rents, as may be increased under the Rental Housing Act, or twenty-five percent (25%) of gross household income, whichever is greater. The number of low-income tenants is the number identified by the Mayor within sixty-five (65) days of receipt of an owner's request for an election. If the owner does not sell or lease to at least fifty-one percent (51%) of the low-income

tenants as declared, a conversion fee of four percent (4%) of the sales price for all units or shares, less the amount of fees previously paid for the accommodation, shall become a lien on the property which the Mayor may collect in the manner provided for collection of property taxes.

(c) Waiver of Lien. The Mayor shall waive a conversion fee lien on a unit or share purchased by a low-income tenant.

Sec. 205. Certification Fee. D.C.Code, sec. 45-1699.204

An owner who seeks to convert must pay the Mayor a certification fee. The Mayor is authorized to collect and establish the amount of the fee. The certification fee shall be sufficient to cover the cost of administering this title.

Sec. 206. Cooperative Conversion. D.C.Code, sec. 45-1699.205

(a) Notice of Conversion. An owner shall provide each tenant with prior written notice of an intent to convert of at least one hundred twenty (120) days by first class mail and by conspicuous posting in common areas of the housing accommodation. An owner shall not provide notice

prior to the Mayor's certification of compliance for purposes of cooperative conversion.

(b) Tenant Opportunity to Purchase Unit. An owner shall make to each tenant of the housing accommodation a bona fide offer of sale of the rental unit which the tenant occupies. An offer includes, at a minimum, the asking price for the unit and a summary of tenant rights and sources of technical assistance as published in the D.C. Register by the Mayor, if published. An owner shall afford the tenant at least sixty (60) days in which to make a contract to purchase the unit at a mutually agreeable price and under mutually agreeable terms. An owner shall not provide notice prior to the Mayor's certification of compliance for purposes of cooperative conversion.

(c) Notice to Vacate. An owner shall not serve a notice to vacate until at least ninety (90) days after the tenant received notice of intention to convert, or prior to expiration of the sixty (60) day period of notice of opportunity to purchase.

Sec. 207. Notice of Condominium Conversion. Section 409(b) of the Condominium Act (D.C. Code, D.C.Code, sec. 5-1268

sec. 5-1269(b)) is amended by striking the word "later" and inserting the word "sooner" in lieu thereof.

Sec. 208. Elderly Tenancy.

D.C.Code, sec. 45-1699.206

(a) Eviction Limited. Notwithstanding any other provision of this title, the Condominium Act, or the Rental Housing Act, an owner shall not evict or send notice to vacate to an elderly tenant with an annual household income, as determined by the Mayor, of less than thirty thousand ($30,000) per year unless:

(1) the tenant violates an obligation of the tenancy and fails to correct the violation within thirty (30) days after receiving notice of the violation from the owner;

(2) a court of competent jurisdiction has determined that the tenant has performed an illegal act within the rental unit or housing accommodation; or

(3) the tenant fails to pay rent.

(b) Rent Level. Any owner of a converted unit shall not charge an elderly tenant rent in excess of the lawful rent at the time of request for a tenant election for purposes of conversion

plus annual increases on that basis authorized under the Rental Housing Act.

(c) For the purposes of this title, the term "elderly tenant" means a head of household who is sixty-two (62) years of age or older. The number of elderly tenants qualifying under this section is that number on the day an owner requests a tenant election for purposes of conversion.

Sec. 209. Property Tax Abatement. The Mayor shall not require an owner who converts a housing accommodation into a condominium or cooperative to pay real property tax on the proportionate value of units occupied by low-income tenants. D.C.Code, sec. 45-1699.207

Sec. 210. Exceptions to Coverage of Title; Expiration Provisions. This title shall be effective for three (3) years following its enactment. This title applies to conversion of housing accommodations into condominium or cooperative status for which no notice of filing is issued pursuant to section 405 of the Condominium Act (D.C. Code, sec. 5-1265) or for which no articles of incorporation are filed pursuant to section 6 of the Cooperative Act (D.C. Code, sec. 29-905) prior to the effective date of D.C.Code, sec. 45-1699.208

this title. The provisions of this title shall not apply to the conversion of housing accommodations into condominium or cooperative status which were vacant on January 1, 1980.

Sec. 211. Repealer Provision. Title V of the Condominium Act (D.C. Code, sec. 5-1281 et seq.) and the Cooperative Regulation Act of 1979, effective September 28, 1979 (D.C. Law 3-19; D.C. Code, sec. 5-732a(b) & -1301 et seq.) are repealed.

D.C.Code, secs. 5-1281 et seq 5-732a; & 5-1301 et seq.

TITLE III

Sec. 301. Short Title. This title may be cited as the "Relocation and Housing Assistance Act of 1980".

Sec. 302. Relocation Payment.

(a) Payment Required. If an owner converts a housing accommodation into a condominium or cooperative, the owner shall provide a relocation payment to each tenant who does not purchase a unit or share or enter into a lease or lease option of at least five (5) years' duration.

D.C.Code, sec. 45-1699.301

(b) Amount of Payment. An owner shall pay the tenant only if the tenant provides a

relocation expense receipt or a written estimate from a moving company or other relocation service provider. Regardless of the amount on the receipt or written estimates, the owner shall pay no less than one hundred twenty-five dollars ($125), but is not required to pay more than five hundred dollars ($500) to the tenant.

(c) Method of Payment. An owner may pay by check or cash to the tenant or person designated by the tenant, and shall pay within seven (7) days of receipt of the written estimate or receipt, the amount indicated or an amount required by subsection (b).

(d) Entitlement to Receive Payment.

(1) The tenant who bears the cost of relocation is entitled to the payment. If there is more than one (1) tenant who bears the cost of relocation from a unit, the owner shall pay the tenants proportionally.

(2) The owner is not required to make a relocation payment to a tenant against whom the owner has obtained a judgment for possession of the unit.

(3) If an owner does not make a relocation payment as required, the tenant has a private right of action to collect the payment and is entitled to costs and reasonable attorney fees for bringing the action.

Sec. 303. Relocation Services. D.C.Code, sec. 45-1699.302

(a) Services Required. The Mayor shall provide relocation assistance to low-income tenants who move from a housing accommodation which is converted into a condominium or cooperative. The Mayor shall provide service in the manner required by section 209 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, approved January 2, 1971 (84 Stat. 1899; D.C. Code, sec. 5-732a).

(b) Nature of Services. Section 209 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, approved January 2, 1971 (84 Stat. 1899; D.C. Code, sec. 5-732a) is amended by (1) redesignating existing section 209 as subsection (a) of section 209; and (2) by adding the following new subsection: D.C.Code, sec. 5-732a

"(b) (1) If a housing accommodation within the geographic boundaries of the

District of Columbia is converted into a condominium or cooperative, substantially rehabilitated or demolished, or discontinued from housing use, the Mayor shall provide relocation services in the manner required by subsection (a) to low-income tenants who move from the accommodation. Services include, at a minimum, ascertaining the relocation needs for each household, providing current information on the availability of comparable housing of suitable size, supplying information concerning federal and District housing programs, and providing counseling to displaced persons in order to minimize hardships in adjusting to relocation.

"(2) For purposes of this section, the term: (A) 'comparable housing' means rental or homeownership units with equivalent benefits and services included in the monthly payments.

"(B) 'suitable size' means for a one (1) person family, an efficiency unit; for a two (2) person family, a one (1) bedroom unit; for a

family of three (3) or four (4) persons, a two (2) bedroom unit; for a family of five (5) or six (6) persons, a three (3) bedroom unit; and for a family of seven (7) or more persons, a four (4) bedroom unit. In addition, the meaning of the term 'suitable size' is increased as necessary to allow children and unmarried adults of the opposite sex to have separate sleeping rooms. In determining the meaning of the term 'suitable size', one (1) person living in a one (1) bedroom unit is eligible for relocation in a one (1) bedroom comparable unit.".

Sec. 304. Housing Assistance Payments. D.C.Code, sec. 45-1699.30

(a) Payment Required. If an owner converts a housing accommodation into a condominium or cooperative, the Mayor shall provide housing assistance payment for three (3) years to each low-income tenant who does not purchase a unit or share.

(b) Eligibility. In order to receive housing assistance payments, the tenant must:

(1) Be low-income.

(2) Apply for the assistance.

(3) have been living in a rental unit within the converted housing accommodation for at least one hundred eighty (180) days prior to receipt of an owner's request for a tenant election for purposes of conversion; and

(4) reside within the District of Columbia after conversion of the housing accommodation.

(c) Amount of Assistance. The amount of a housing assistance payment is calculated as follows:

(1) If a household's average monthly housing expenses during the twelve (12) consecutive months prior to conversion are less than twenty-five percent (25%) of net monthly household income, the amount of a monthly housing assistance payment is the difference between twenty-five percent (25%) of net monthly household income and the projected average monthly housing expenses after conversion.

(2) If a household's average monthly housing expenses during the twelve (12) consecutive months prior to conversion are more than twenty-five percent (25%) of net monthly

household income, the amount of a monthly housing assistance payment is the difference between the prior average monthly housing expenses and the projected average monthly housing expenses after conversion.

(3) The Mayor may review the eligibility of a household and the amount of payments and change the household's status accordingly.

(4) For purposes of this subsection, the term "housing expenses" includes rent or monthly payment for a unit plus the cost of all utilities if not included in the rent or monthly payment. The term "housing expense" shall not include a security deposit. The Mayor is not required to consider housing expenses which exceed the level of fair market rents established by the federal Department of Housing and Urban Development for the District of Columbia.

(d) Method of Payment.

(1) The Mayor may make housing assistance payments on a monthly basis or an aggregate basis for any portion of the period of eligibility. An aggregate payment is calculated

by multiplying the monthly payment amount by the number of months desired.

(2) The Mayor may contract with a financial institution in the District of Columbia for provision of housing assistance payments with District funds.

(3) The Mayor may provide housing assistance payments to the tenant, or to the tenant's landlord directly.

Sec. 305. Payments Not Subject to District Tax. Relocation and housing assistance payments are not income to the recipient for purposes of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 331; D.C. Code, sec. 47-1551 et seq.). D.C.Code, sec. 45-1699.304

Sec. 306. Notice to Tenants. The Mayor shall include tenant rights to relocation payments, relocation services, and housing assistance payments in the summary of tenant rights required for publication in the D.C. Register. When an owner sends notice of intent to convert a housing accommodation into a condominium or cooperative, the owner shall attach to that notice a summary of tenant rights under this title and an application D.C.Code, sec. 45-1699.305

for relocation services and housing assistance payments as published in the D.C. Register by the Mayor.

Sec. 307. Housing Assistance Fund. D.C.Code, sec. 45-1699.306

(a) Creation of Fund. The Mayor shall deposit revenues from collection of the condominium or cooperative conversion fee in a special fund for purposes of housing assistance to low-income persons.

(b) Authorized Uses. The Mayor may spend revenues from the special fund for providing housing assistance payments as required by this title and for other purposes as authorized by act of the Council of the District of Columbia.

(c) Appropriation. The Mayor shall request an appropriation in the annual budget of the District of revenues within the special fund for its authorized purposes.

(d) Termination. The Council of the District of Columbia shall reestablish the special fund by the end of the fifth fiscal year following the effective date of this title. Should the fund not be reestablished, it is dissolved and its revenues shall revert to the general fund of the District.

During the life of the special fund, however, its revenues do not revert to the general fund at the end of a fiscal year.

Sec. 308. Information and Technical Assistance. The Mayor shall establish an office to coordinate programs of technical assistance and serve as a central clearinghouse for information needed by tenants regarding the conversion and sale of rental housing. Program areas for this office include, but are not limited to, counseling, subsidy programs, relocation services, housing purchase and rehabilitation finance, tax relief programs, and technical assistance for the formation of tenant organizations, purchase of housing accommodations, rehabilitation, and conversion to cooperative or condominium. D.C.Code, sec. 45-1699.307

Sec. 309. Expiration Provisions. This title shall be effective for three (3) years following its enactment. D.C.Code, sec. 45-1699.308

TITLE IV

Sec. 401. Short Title. This title may be cited as the "Tenant Opportunity to Purchase Act of 1980".

Sec. 402. Existence of Tenant Opportunity to Purchase. Before an owner of a housing accommodation may sell the accommodation, or issue a notice of intent to recover possession, or notice to vacate, for purposes of demolition or discontinuance of housing use, the owner shall give the tenant an opportunity to purchase the accommodation at a price and terms which represent a bona fide offer of sale. D.C.Code, sec. 45-1699.401

Sec. 403. Offer of Sale. The owner shall provide each tenant and the Mayor a written copy of the offer of sale by first class mail and post a copy of the offer of sale in a conspicuous place in common areas of the housing accommodation if it consists of more than one (1) unit. An offer includes, at a minimum: D.C.Code, sec. 45-1699.402

(a) the asking price and material terms of the sale;

(b) a statement that the tenant has the right to purchase the accommodation under this act and a summary of tenant rights and sources of technical assistance as published in the D.C. Register by the Mayor: PROVIDED, HOWEVER, That if no such statement and summary have been published, the

owner will be deemed in compliance with this subsection;

(c) a statement as to whether a contract with a third party exists for sale of the accommodation and that the owner shall make a copy available to the tenant within seven (7) days after receiving a request; and

(d) a statement that the owner shall make available to the tenant a floor plan of the building and an itemized list of monthly operating expenses, utility consumption rates, and capital expenditures for each of the two (2) preceding calendar years within seven (7) days after receiving a request.

Sec. 404. Third Party Rights. The right of a third party to purchase an accommodation is conditional upon exercise of tenant rights under this title. The time periods for negotiation of a contract of sale and for settlement under this title are minimum periods, and the owner may afford the tenants a reasonable extension of such period, without liability under a third party contract. Third party purchasers are presumed to

D.C.Code, sec. 45-1699.403

act with full knowledge of tenant rights and public policy under this title.

Sec. 405. Contract Negotiation. D.C.Code, sec. 45-1699.404

(a) Bargaining in Good Faith. The tenant and owner shall bargain in good faith. The following constitute prima facie evidence of bargaining without good faith:

(1) the failure of an owner to offer the tenant a price or term at least as favorable as that offered to a third party, within the periods specified in sections 408(c), 409(d), and 410(d), respectively, without a reasonable justification for so doing;

(2) the failure of an owner to make a contract with the tenant which substantially conforms with the price and terms of a third party contract within the time periods specified in sections 408(c), 409(d), and 410(d), respectively, without a reasonable justification for so doing; or

(3) the intentional failure of a tenant or an owner to comply with the provisions of this title.

(b) Deposit. The owner shall not require the tenant to pay a deposit of more than five percent (5%) of the contract sales price in order to make a contract. The deposit is refundable in the event of a good faith failure of the tenant to perform under the contract.

Sec. 406. Assignment and Tenant Partners. D.C.Code, sec. 45-1699.405
The tenant may exercise rights under this title in conjunction with a third party. The tenant may assign his or her rights under this title to an agency or instrumentality of the District or Federal governments.

Sec. 407. Waiver of Rights. An owner shall D.C.Code, sec. 45-1699.406
not request, and a tenant may not grant, a waiver of the right to receive an offer of sale under this title. An owner shall not require waiver of any other right under this title.

Sec. 408. Right of First Refusal. D.C.Code, sec. 45-1699.407
In addition to any other rights specified in this title, a tenant or tenant organization shall also have the right of first refusal during the fifteen (15) days after an owner has received a valid sales contract or other written offer to purchase from a prospective purchaser.

D.C.Code, sec. 45-1699.408

Sec. 409. Single-Family Accommodations. The following provisions apply to single-family accommodations.

(a) Negotiation Period. The owner shall afford the tenant a reasonable period to negotiate a contract of sale, and shall not require less than sixty (60) days. For every day of delay in providing information by the owner as required by this title, the negotiation period is extended by one (1) day.

(b) Time Before Settlement. The owner shall afford the tenant a reasonable period prior to settlement in order to secure financing and financial assistance, and shall not require less than sixty (60) days after the date of contracting. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within ninety (90) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(c) Lapse of Time. If one hundred eighty (180) days elapse from the date of a valid offer under this title and the owner has not sold or

contracted for the sale of the accommodation, the owner shall comply anew with the terms of this title.

Sec. 410. Accommodations with Two (2) through Four (4) Units. The following provisions apply to accommodations with two (2) through four (4) units. D.C.Code, sec. 45-1699.409

(a) Joint and Several Response. The tenants may respond to an owner's offer first jointly, then severally.

(b) Negotiation Period. (1) The owner shall afford the tenants a reasonable period to negotiate a contract of sale, and shall not require less than ninety (90) days. For every day of delay in providing information by the owner as required by this title, the negotiation period is extended by one (1) day.

(2) If at the end of the ninety (90) day period or any extensions thereof, the tenants jointly have not contracted with the owner, the owner shall provide an additional thirty (30) day period, during which any one (1) of the current tenants may contract with the owner for the purchase of the accommodation.

(c) Time Before Settlement. The owner shall afford the tenant a reasonable period prior to settlement in order to secure financing and financial assistance, and shall not require less than ninety (90) days after the date of contracting. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within one hundred twenty (120) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(d) Lapse of Time. If two hundred forty (240) days elapse from the date of a valid offer under this title and the owner has not sold or contracted for the sale of the accommodation, the owner shall comply anew with the terms of this title.

Sec. 411. Accommodations with Five (5) or More Units. The following provisions apply to accommodations with five (5) or more units. D.C.Code, sec. 45-1699.410

(a) Tenant Organization.

In order to make a contract of sale with an owner, the tenants shall:

(1) form a tenant organization with the legal capacity to hold real property, elect officers, and adopt by-laws, unless such a tenant organization exists in a form desired by the tenants;

(2) file articles of incorporation; and

(3) deliver a statement of registration to the Mayor and the owner by hand or by first class mail within forty-five (45) days of receipt of a valid offer. If at the time of receipt of the valid offer, a tenant organization exists in a form desired by the tenants, the delivery of the statement of registration to the Mayor and the owner by hand or by first class mail shall be within thirty (30) days of receipt of a valid offer. The registration shall include the name, address, and phone number of tenant officers and legal counsel (if any); a copy of the articles of incorporation, as filed; a copy of the by-laws; and documentation that the organization represents at least a majority of the occupied rental units as of the time of registration. Upon delivery of the registration, the organization constitutes the sole representative of the tenants, and the prior

offer of sale is deemed an offer to the organization.

(b) Negotiation Period. The owner shall afford the tenant organization a reasonable period to negotiate a contract of sale, and shall not require less than one hundred twenty (120) days from the date of receipt of the statement of registration. For every day of delay in providing information by the owner as required by this title, the negotiation period is extended by one (1) day.

(c) Time Before Settlement.

(1) The owner shall afford the tenant organization a reasonable period prior to settlement in order to secure financing and financial assistance, and shall not require less than one hundred twenty (120) days after the date of contracting. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within two hundred forty (240) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(2) If the tenant organization articles of incorporation provide, by the date of contracting, that the purpose of the tenant organization is to convert the accommodation to a non-profit housing cooperative with appreciation of share value limited to a maximum of the annual rate of inflation, the owner shall require not less than one hundred eighty (180) days after the date of contracting or such additional time as required by this section.

(d) Lapse of Time. If three hundred sixty (360) days elapse from the date of a valid offer under this title and the owner has not sold or contracted for the sale of the accommodation an owner shall comply anew with the terms of this title. In such a case, the tenant organization shall also comply anew with respect to delivery of a registration statement; the original tenant articles of incorporation, officers and by-laws remain effective unless defective under their own terms or other provisions of law.

Sec. 412. Exceptions to Coverage of Title; Expiration Provisions. This title shall be effective for three (3) years following its

D.C.Code, sec. 45-1699.411

enactment. The provisions of this title shall not apply to the sale of housing accommodations which were vacant on January 1, 1980. Sections 402, 404, 405, 406, 407, 408(b) and (c), 409(c) and (d), and 410(c) and (d) apply to any sale of a housing accommodation for which a contract is not fully executed prior to June 3, 1980, and the period for contracting pursuant to section 601 or 602 of the Rental Housing Act is not expired prior to the effective date of this act. This title applies in its entirety to any sale of a housing accommodation for which a notice pursuant to section 601 or 602 of the Rental Housing Act is not received by the tenants in at least fifty percent (50%) of the occupied rental units in the housing accommodation prior to June 3, 1980.

Sec. 413. Repealer Clause. Title VI of the Rental Housing Act (D.C. Code, sec. 45-1699.8 et seq.) is repealed.

D.C.Code, sec. 45-1699.8 et seq.

TITLE V

IMPLEMENTATION AND ENFORCEMENT

Sec. 501. Rule Making. (a) The Mayor shall issue rules for the implementation of this act. The Mayor shall issue rules for the holding of

D.C.Code, sec. 45-1699.501

elections which shall include, but not be limited to, provisions for secret voting, and the right of any person including the owner to observe the counting of the ballots.

(b) Within sixty (60) days after the effective date of this act, the Mayor shall publish in the D.C. Register, a summary of tenant rights and obligations pursuant to this act, and sources of technical assistance, which shall include, but shall not be limited to, information regarding counseling, subsidy programs, relocation services, housing purchase and rehabilitation finance, tax relief programs, formation of tenant organizations, purchase of housing accommodations, rehabilitation, and conversion to cooperative or condominium.

Sec. 502. Time Periods. If a time period running under this act ends on a Saturday, Sunday, or legal holiday, it is extended until the next day which is not a Saturday, Sunday, or legal holiday. D.C.Code, sec. 45-1699.502

Sec. 503. Civil Cause of Action. An aggrieved owner, tenant, or tenant organization may seek enforcement of any right or provision D.C.Code, sec. 45-1699.503

under this act through a civil action in law or equity, and upon prevailing, may seek an award of costs and reasonable attorney fees. In an equitable action, the public policy of this act favors the waiver of bond requirements to the extent permissible under law or court rule.

D.C.Code, sec. 45-1699.504

Sec. 504. Administrative Remedy.

(a) A party who is aggrieved by an action of the Mayor under this act, may request a hearing before a hearing officer for the purpose of fact finding or interpretation with respect to those rights.

(b) The Mayor shall appoint a senior hearing officer who is an employee of the District government and a member of the Bar of the District of Columbia Court of Appeals to preside over hearings requested under this section. The Mayor shall make one (1) or more appointments in such a manner and at such a time as to assure the appearance of fairness, including adequate separation of investigative and adjudicative functions, to all parties.

(c) The hearing officer appointed under this section has the following powers:

(1) to hold hearings, administer oaths, and require by subpoena or otherwise compel the attendance and testimony of witnesses, and the production of written information which the hearing officer deems necessary to carry out the functions of this act;

(2) in the case of contumacy or refusal to obey a subpoena issued under this act, to directly request the Superior Court of the District of Columbia to issue an order to enforce the subpoena;

(3) to render findings of fact, conclusions of law, and issue declaratory or provisional orders as to the rights of parties under this act; and

(4) to directly commence a civil action before the Superior Court of the District of Columbia to enforce a final order issued by the hearing officer.

(d) An order of the hearing officer is final after fifteen (15) days from the date of its issuance unless a party files a petition for judicial review within that period.

(e) Hearings and judicial review of orders under this section are governed by sections 109 and 110 (the contested case and judicial review provisions) of the District of Columbia Administrative Procedure Act, approved October 29, 1968 (82 Stat. 813; D.C. Code, secs. 1-1509 & - 1510).

(f) This section is not a bar to civil action for legal or equitable relief by any party.

Sec. 505. Statutory Construction. The purposes of this act favor resolution of ambiguity by the hearing officer or a court toward the end of strengthening the legal rights of tenants or tenant organizations to the maximum extent permissible under law. If this act conflicts with another provision of law of general applicability, the provisions of this act control. D.C.Code, sec. 45-1699.505

Sec. 506. Declaration of Continuing Housing Crisis. D.C.Code, sec. 45-1699.506

(a) Within one (1) month of the first annual anniversary date of the effective date of this act, and during the same period of each successive year, the Mayor shall determine and then declare whether there is a continuing housing crisis in

the District. If the Mayor determines that at least one (1) of the factors listed in subsection (b) continue to exist, the Mayor shall declare that there is a continuing housing crisis. If the Mayor determines that none of the factors listed in subsection (b) continue to exist, the Mayor shall declare there is no longer a housing crisis. The Mayor's declaration shall include the reasons for such determination.

(b) The factors which the Mayor shall consider in determining whether there is a continuing housing crisis in the District include, but are not limited to, the following:

(1) that the percentage of all rental housing units in the District which are vacant, habitable, and available for occupancy is less than five percent (5%);

(2) that the number of new rental units made available for occupancy with the District of Columbia in the previous year is less than the number of units demolished, discontinued in use or converted to condominiums, cooperatives or nonhousing use; and

(3) that the number of new or substantially rehabilitated units subsidized under federal or local publicly funded programs and made available for occupancy within the District of Columbia in the past year was less than ten thousand (10,000) units.

(4) The Mayor shall consider any other significant factors which relate to the supply of housing available for low income District of Columbia citizens.

(c) If the Mayor declares that there is no longer a housing crisis within the District of Columbia, sections 202, 203, and 208 shall no longer be in effect.

D.C.Code, sec. 45-1699.507

Sec. 507. Severability Clause. If any provision of this act, or any section, clause, phrase, or word or the application thereof, in any circumstances is held invalid, the validity of the remainder of the act and of the application of any other provision, section, sentence, clause, phrase, or word shall not be affected.

Sec. 508. Effective Date. This act shall take effect after a thirty (30) day period of Congressional review following approval by the

Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1).

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED: June 27, 1980

COUNCIL OF THE DISTRICT OF COLUMBIA

RECORD OF OFFICIAL COUNCIL ACTION

DOCKET NO: B 3-222

ACTION: Adopted First Reading 6/3/80

☒ **VOICE VOTE:** Unanimous

Absent: Hardy, Spaulding, Winter

☐ **ROLL CALL VOTE:**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
JARVIS					ROLARK									

X—Indicates Vote A.B.—Absent N.V.—Not Voting

CERTIFICATION OF RECORD

Secretary to the Council

ACTION: Adopted Final Reading 6/17/80

☐ **VOICE VOTE:**

Absent:

☒ **ROLL CALL VOTE:**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
DIXON	X				KANE		X			SHACKLETON	X			
WINTER	X				MASON	X				SPAULDING	X			
CLARKE	X				MOORE				X	WILSON	X			
HARDY		X			RAY	X								
JARVIS	X				ROLARK	X								

X—Indicates Vote A.B.—Absent N.V.—Not Voting

CERTIFICATION OF RECORD

Secretary to the Council

ACTION:

☐ **VOICE VOTE:**

Absent:

☐ **ROLL CALL VOTE:**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
JARVIS					ROLARK									

X—Indicates Vote A.B.—Absent N.V.—Not Voting

CERTIFICATION OF RECORD

Secretary to the Council

Council of the District of Columbia
Report

City Hall, 14th and E Streets, N.W. 20004 Fifth Floor 638-2223 or Government Code 137-3806

To All Councilmembers

From Willie J. Hardy, Chairwoman, Committee on Housing and Economic Development

Date May 13, 1980

Subject Bill 3-222, "Rental Housing Conversion and Sale Act of 1980"

The Committee on Housing and Economic Development, to which was referred Bill 3-222, "Rental Housing Conversion and Sale Act of 1980", hereby reports favorably and recommends passage of the Bill by the Council.

Capsule Legislative History

Bill 3-222 was introduced by Councilmembers Wilson, Ray, Shackleton, Spaulding, Rolark, Moore, Kane, Clarke, and Jarvis — November 13, 1979

Referral of Bill 3-222 to the Committee on Housing and Economic Development — November 14, 1979

Public Hearing on Bill 3-222 — February 14, 1980

Committee Consideration — April 29, 1980

Committee Reconsideration — May 13, 1980

Vote:		
	Clarke	Yes
	Hardy	Yes
	Moore	Absent
	Spaulding	Yes
	Wilson	Yes

RECEIVED

MAY 30 1980

I. Purpose and Intent

Bill 3-222, the "Rental Housing Conversion and Sale Act of 1980", would give the District of Columbia permanent legislation to regulate condominium and cooperative conversion, and the sale of rental housing.

In 1976, the Council of the District of Columbia passed the "Condominium Act of 1976" D.C. Law 1-89. The Act did not effectively deal with the result of conversion, the displacement of low and moderate income tenants. As a result the Council enacted an emergency moratorium on conversions. The Council stated in the Condominium Cooperative Conversion Stabilization Emergency Resolution of 1979 D.C. Law 3-53: "The number of apartments declared eligible for conversion to condominium or cooperative apartments by the District of Columbia has risen dramatically in the last year, threatening to squeeze out of the city low and middle-income people who cannot afford to buy apartments they now rent." Based on this the Council concluded, "The rapid increase in the rate of condominium and cooperative conversion has created an emergency in the rental housing supply."

In spite of the Condominium Act and the emergency moratorium, conversions have continued at a rapid rate, causing further displacement of many of the city's low and moderate-income residents and the elderly who live on fixed incomes. Statistics provided by the Rental Accommodations Office show that as of May 18, 1979, 6,596 rental units had been converted to condominium use. This represents 3.3% of the rental stock in the city. (Appendix B.) The figure is much larger for various parts of the city. Wards 2 and 3 have felt the effects of conversion the most. 25% of the total amount of converted property is located in Ward 2. 47% of total conversions were in Ward 3. Thousands of other units throughout the city are threatened by outstanding Certificates of Eligibility. (Appendix F).

The poor and the elderly are most affected by conversion because they are least able to purchase their unit once converted and are least able to compete in a rental market which is rapidly increasing in price, while decreasing in available units. According to estimates by the Municipal Planning Office, the District of Columbia has lost 12,600 rental units since 1974. The D.C. Legislative Commission on Housing in its 1978 report stated the problem of the lower income household in finding affordable housing:

> "A limited supply of housing on the free market is like an auction. When different economic capabilities are competing for the same unit, the lesser economic capability will lose it if the unit is or can become desirable to the stronger economic capability. The District stock is basically sound-the great bulk of it can become desirable housing. When housing is bid up as a result of the preferences and economic capability of the baby boom, it goes well beyond the ecomomic range of those who live in it when it was not desirable by the economically more capable. The former residents are displaced as shelter is bid out of their economic range.

In order to remain in the District those who are displaced must find shelter in the decreasing number of units that the economically more capable do not find desirable, or they must pool in order to be able to afford housing in the District. The result will be two economic pools which are in direct competition with each other. One pool will be the upwardly mobile professional young adults from the baby boom and the other will be the economically threatened lower income pool that will find it more and more difficult to stay in the District."

The intent of Bill 3-222 is to protect these individuals and ;ir families from displacement and the loss of their homes.

The "Rental Housing Conversion and Sale Act of 1980" gives the ıants a voice in whether their homes will be converted. Before an :ommodation is eligible for conversion, over 50% of the qualified :ers of the accommodation must consent to conversion. The 51% ;ure would give protection to tentats by allowing the conversion proceed only after a majority of tenants that are not protected statutory tenancies, employed by the owner, or have lived in the :ommodation for less than 90 days vote in favor of conversion. A ıilar limitation is found in both New York City and San Francisco's ıversion law.

Bill 3-222 gives low income elderly tenants a statutory ıancy for as long as they wish to remain tenants. An owner may .ct a low-income elderly tenant only if:

1) the tenant violates an obligation of the tenancy and fails to correct the violation within 30 days after notice

2) the tenant performs an illegal act within the rental unit or housing accommodation; or

3) the tenant fails to pay rent.

:ing the public hearing held by the Council's Housing and Economic velopment Committee many elderly citizens who had already been ıplaced by conversion expressed their fears that once again they ıld be uprooted from their homes or forced in desperation to ımit their life savings for the down payment on a condominium. a survey conducted by the D.C. Department of Housing and Community velopment of ten of its most recently registered properties, the ;rage price for a converted unit was $98,000. This amount is ɔstantially out of reach for the majority of the District's lerly even if they chose to purchase their units. Bill 3-222 ll protect the low income elderly tenant by allowing him to remain tenant in the converted accommodation at existing rent levels ıs annual increases authorized by the Rental Housing Act of 1977. :hough there was testimony at the public hearing that all the lerly should be given a statutory tenancy, the Bill is not this ɔad.

Instead, only those families with incomes below the median family income for the District of Columbia are protected by the Bill. The 1979 income levels are:

one person household	$ 8,879.00
two person household	$10,654.00
three person household or a one or two person household containing a person who is 62 years of age or older or who is handicapped	$15,981.00
four person household	$17,757.00
five person household	$19,533.00
more than five person household	$21,308.00

The median family income is determined by the United States Bureau of Census and will be adjusted annually by historic trends of that median.

Title III of Bill 3-222 establishes regulations for relocation and housing assistance. Relocation payments as provided by the Act are to be paid by the owner of the converted accommodation to any tenant who relocates because of conversion, and has evidence of relocation receipts or estimates. The owner is required to pay at least $125 to the tenant who bears the cost of relocation, but not more than $500. This payment that is made by the owner will aid the dislocated tenant in paying for his moving expenses.

The Housing Assistance Payments are to be made by the Mayor out of a Special Fund. The Special Fund is to be financed out of the 4% conversion fee which will be paid by the owner of the accommodation. Housing Assistance Payments are to be made to all eligible tenants. To be eligible a tenant must meet four criteria:

1) be low-income

2) apply for the assistance

3) have been living in a rental unit in a converted accommodation for at least 180 days prior to receipt of the owner's request for a tenant election.

4) reside within the District of Columbia after conversion of the accommodation.

It is the opinion of the Department of Housing and Community Development that the 4% conversion fee will be adequate to cover the required three years of housing assistance payments. Based on preliminary figures provided by DHCD the average housing assistance payment will be $50 per month for three years. This would be a total payment of $1,800 to the displaced tenant. The average converted unit is priced at $98,000. This would yield $3,920 worth of tax to be deposited into the Special Fund, an amount that would be more than adequate to cover the cost of housing assistance payments.

Title IV requires the owner with an intent to sell his accommodation to a third party, to first offer the accommodation to the tenant or tenants. This Title continues the policy of the Council of preventing displacement by giving the tenants an opportunity to purchase their homes.

II. Section-by-Section Synopsis

Title I

Sec. 101. a-m. This section gives the definition of terms as used in this act.

Title II

Sec. 201. This section repeals Title V of the "Condominium Act of 1976",and "Cooperative Regulation Act of 1979".

Sec. 202. This section gives the requirements which must be met by an owner prior to conversion. The requirements are:

a) certification by the mayor of tenant election

b) that conversion fee and certification fee have been paid

c) that owner has complied with all requirements of act.

Only the owner of an accommodation may request certification. Certification is not transferable.

Sec. 203. a-j. This section gives the obligations, duties and rights of the tenant organization and the owner in the handling of the tenant election.

Sec. 204. This section gives the amount of the conversion fee and the conditions on which it may be reduced.

Sec. 205. This section gives the Mayor the authority to collect and establish a certification fee

Sec. 206. This section states the duties an owner has to his tenants, when the owner wishes to convert.

a) notice to tenants of the conversion

b) tenant opportunity to purchase

c) tenant's notice to vacate.

Sec. 207. this section gives standards for condominium conversion by amending section 408(b) of the Condominium Act.

Sec. 208. a-c. This section gives a statutory tenancy to low-income elderly, 62 years or older, at rent levels not to exceed the lawful rent at the time the owner request a tenant election for purposes of conversion.

Sec. 209. This section abates the real property tax on the proportionate value of units occupied by low-income tenants.

Sec. 210. This section gives the Mayor the authority to make rules to implement Title II.

Sec. 211. This section gives the date and length of effect of Title II. The Title applies to conversion of properties for which no notice of filing is issued pursuant to section 406 of the Condominium Act or for which no articles or incorporation are filed pursuant to the Cooperative Act prior to the effictive date of this title.

Title III

Sec. 301. (a)-(d). This section gives the standards for relocation payments, amount to be paid, and who is eligible for payments.

Sec. 302. This section requires the Mayor to give relocation services to displaced tenants, and defines the nature of the services to be provided.

Sec. 303. (a)-(d). This section defines the nature and scope of the Housing Assistance Program to be administered by the Mayor. Housing Assistnace payments are to be calculated by one of two ways:

1) If a households housing expenses were less than 25% of net monthly income, the amount of housing assistance payment is the difference between 25% of net monthly household income and the projected average monthly housing expenses after conversion.

2) If a households housing expenses were more than 25% of net monthly income, the amount of housing assistance payment is the difference between the prior average monthly housing expenses and the projected average monthly housing expenses after conversion.

Sec. 304. Housing Assistance payments and relocation payments are not subject to the receiver's D.C. Income taxes.

Sec. 305. This section requires the owner of an accommodation to make available to all tenants information on tenants rights under this title as well as applications for relocation and housing assistance. The Mayor shall publish in the D.C. Register a summary of tenants rights.

Sec. 306. (a)-(b). This section authorizes the creation of a special fund to be used for the Housing Assistance Program.

Sec. 307. This section authorizes the Mayor to establish an Office to coordinate programs of technical assistance and to serve as a cleringhouse for information to tenants.

Sec. 308. This section authorizes the Mayor to make rules to implement and interpret this title.

Sec. 309. This section gives the date and duration this title is to have effect.

Sec. 401. This section repeals Title IV of the Rental Housing Act of 1977.

Sec. 402. This section requires the owner prior to sale of the accommodation to a third party to first make a bonafide offer of sale to the tenants.

Sec. 403. This section describes the minimum requirements of an offer to the tenants under this title.

Sec. 404. This section declares the absolute priority of the tenants' rights pursuant to this title, and the conditional nature of the right of a third party to purchase the accommodation.

Sec. 405. (a) This subsection establishes that a tenant and owner must bargain in good faith. Further this section describes what constitutes prima facie evidence of bad faith. The circumstances described are only a begining point for a determination of bad faith bargaining, rather than absolute criteria which would obviate the relative nature of good faith bargaining as it pertains to a particular transaction.

(b) This subsection states that an owner may not require a deposit of more than 5% of the contract price.

Sec. 406. This section states that the tenant may exercise rights in conjunction with a third party.

Sec. 407. This section states what rights a tenant may and may not waive.

Sec. 408. This section detailes the requirements for the sale of a single family accommodation by the owner to the tenant.

Sec. 409. This section details the requirements for sale of an accommodation with two through four units by the owner to the tenants or tenant.

Sec. 410. This section details the requirements for the sale of an accommodation with five or more units by the owner to the tenant organization.

Sec. 411. Effective date of Title IV.

Sec. 501. This section authorizes the Mayor to issue rules.

Sec. 502. This section qualifies the time periods in this act.

Sec. 503. This section establishes the right of the tenant or tenant organization to seek enforcement through a civil action in law or equity of a right or provision of this act.

Sec. 504. This section describes the administrative remedies available to a party whose rights are determined under this act. Further this section requires the Mayor to establish an administrative procedure to effectuate the provisions of this act, and details certain requirements and authority of the administrative officer.

Sec. 505. This section states the statutory construction of this act.

Sec. 506. Severability clause.

Sec. 507. Effective date of the act.

. Estimate of Fiscal Impact

Bill 3-222, "Rental Housing Conversion and Sale Act of 1980" .l have no discernible impact on the appropriated budget of the ;trict of Columbia. The Mayor is authorized to set a fee which .l cover the cost of administering the Act. The requirement of :le III for the payment of funds for housing assistance to ;placed tenants will be more than adequately convered by the 4% : unit conversion fee that will be paid by the owner.

Executive Comments

Comments were received by the Office of Corporation Counsel i the Department of Housing and Community Development. Although, 222 does not contain all the recommendations of D.H.C.D., it is a l1 which they have indicated they will be able to administer if a s for administration of the act is included. The Department pressed concern with the concept of tenant elections and the partment's ability to appear unbiased while acting as arbitrator tween tenants and owner. It is the Department's position that at ast two staff persons would be required to attend each tenant eting to guard against possible abuses.

The Office of Corporation Counsel has advised the Committee, at while there is little case law in this relatively new area of gislation, it feels that this legislation could overcome a nstitutional challenge. Both the comments of the Department of using and Community Development and the Office of Corporation unsel have been included in the Appendix of the Committee Report.

Committee Action

Bill 3-222, was referred to the Committee on Housing and onomic Development by Council Chairman Dixon November 14, 1979.

A public hearing on Bill 3-222 was held on February 14, 1980 ter 20 days public notice. Over 60 concerned citizens were ard to testify their opinion of the Bill. Statements from this aring have been filed with Legislative Services Unit of the uncil.

The Committee on Housing and Economic Development held its gularly scheduled meeting on April 29, 1980. Bill 3-222 was nsidered by the Committee members. The Bill with amendments s voted out of Committee. The Committee voted to approve the mmittee Report with directions to staff to conform the report the actions taken by the Committee at its meeting.

The Committee on Housing and Economic Development reconsidered l1 3-222 at its Committee meeting of May 13, 1980. At that meeting s Chairwoman made a motion to reconsider the Bill and adding to it :les IV and V. The motion passed and the Bill was reconsidered. s Committee voted Bill 3-222 as amended out of Committee, and voted approve the Committee Report with directions made to the Committee aff to conform the report to the actions taken by the Committee mbers.

Appendix

Council of the District of Columbia
Memorandum

District Building, 14th and E Streets, N.W. 20004 Fifth Floor 724-8000

To MEMBERS OF THE COUNCIL

From JOHN P. BROWN, JR., ACTING ASST. SECRETARY TO THE COUNCIL

Date NOVEMBER 14, 1979

Subject REFERRAL OF PROPOSED LEGISLATION

Notice is herewith given that the following proposed legislation has been filed with the Office of the Secretary on November 13, 1979 Copies are available in Room 28, Legislative Services Unit.

Title: Rental Housing Conversion and Sale Act of 1979, Bill 3-222

Introduced by: Councilmembers Wilson, Ray, Shackleton, Spaulding, Rolark, Moore, Kane, Clarke, Jarvis

The Chairman is referring this proposed legislation to the Committee on Housing and Economic Development.

cc: General Counsel
Legislative Counsel
Legislative Services Unit

Councilmember John A. Wilson

Councilmember John Ray

Councilmember Polly Shackleton

Councilmember William Spaulding

Councilmember Wilhelmina Rolark

Councilmember Jerry A. Moore

Councilmember Betty Ann Kane

Councilmember David Clarke

Councilmember Charlene Drew Jarvis

A BILL

3-222

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 1979

Councilmembers Wilson, Ray, Shackleton, Spaulding, Rolark, Moore, Kane, Clarke, Jarvis

introduced the following bill, which was referred to the Committee on Housing & Economic Development.

To repeal existing law with respect to conversion of rental housing, relocation and housing assistance payments, and tenant opportunity to purchase and enact the following provisions in their place.

CONTENTS

RENTAL HOUSING CONVERSION AND SALE ACT OF 1979

TITLE I

DEFINITIONS

TITLE II

CONVERSION OF RENTAL HOUSING TO CONDOMINIUM OR COOPERATIVE STATUS

TITLE III

RELOCATION AND HOUSING ASSISTANCE

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA That this act may be cited as the "Rental Housing Conversion and Sale Act of 1979."

TITLE I
DEFINITIONS

Sec. 101. Definitions. As used in this act:

(a) "Condominium" is defined by section 102(d) of the Condominium Act.

(b) "Condominium Act" means the Condominium Act of 1976 as amended (D.C. Law 1-89, D.C. Code 5-1201 et seq).

(c) "Cooperative" means a cooperative legally incorporated pursuant to the District of Columbia Cooperative Association Act as amended (June 19, 1940; 54 Stat. 480

et seq.; 29 D.C. Code 801 et seq.) or a cooperative corporation incorporated in another jurisdiction for the primary purpose of owning and operating real property in which its members reside.

(d) "Cooperative Act" means the District of Columbia Cooperative Association Act as amended (June 19, 1940, 54 Stat. 480 et seq.; D.C. Code 29-801 et seq.).

(e) "District" refers to the District of Columbia.

(f) "Head of household" means a tenant who maintains the affected rental unit as a principal place of residence, is a resident and domiciliary of the District of Columbia and contributes more than one-half (1/2) of the cost of maintaining the rental unit. An individual may be considered a head of household for the purposes of this act without regard to whether the individual would qualify as a head of household for the purpose of another law.

(g) "Housing accommodation," or "accommodation," means a structure in the District of Columbia containing one (1) or more rental units and the appurtenant land. The term does not include a hotel, motel, or other structure used primarily for transient occupancy and in which at least sixty (60) percent of the rooms devoted to living quarters for tenants or guests are used for transient occupancy if the owner or other person or entity entitled to receive rents is subject to the sales tax imposed by D.C. Code 47-2601(14)(a)(3) and the occupant of the rental unit has been in occupancy for less than 15 days.

(h) "Low income" means a household with a combined annual income totaling less than the following percentage of the median annual family income for the District of Columbia, as the median is determined by the United States Bureau of Census and adjusted yearly by historic trends of that median, and as may be further adjusted by an interim census of District of Columbia incomes by local or regional government agencies:

one-person household	50 percent
two-person household	60 percent
three-person household or a one-or two-person household containing a person who is 62 years of age or older or who is handicapped	90 percent
four-person household	100 percent
five-person household	110 percent
more than five-person household	120 percent

(i) "Mayor" refers to the Mayor of the District of Columbia or the designated representative of the Mayor.

(j) "Owner" means an individual, corporation, association, joint venture, business entity and their respective agents, successors and assignees, who hold title to the housing accommodation unit or share.

(k) "Rental unit" or "unit" means only that part of a housing accommodation which is rented or offered for rent for residential occupancy and includes an apartment, efficiency apartment, room, suite of rooms, and single family home or duplex (and the appurtenant land).

(l) "Tenant" means a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy or benefits of a rental unit within a housing accommodation. The singular term includes the plural.

(m) "Tenant organization" means an organization which represents at least a majority of the occupied rental units in the housing accommodation at the time of organizing.

TITLE II

CONVERSION OF RENTAL HOUSING TO
CONDOMINIUM OR COOPERATIVE STATUS

Sec. 201. Repealer clause. Title V of the "Condominium Act of 1976" as amended (D.C. Law 1-89) and the "Cooperative Regulation Act of 1979" (D.C. Law 3-19) are repealed.

Sec. 202. Prerequisite to Conversion. An owner shall not convert a housing accommodation into a condominium or cooperative until the Mayor certifies that the heads of households from over fifty (50) percent of the units have voted for the conversion, that the conversion fee has been paid, and that the owner has complied with the other requirements of this act. Only an owner may request a tenant election to convert, send notice of intent to convert, or convert an accommodation. Certification of a conversion by the Mayor is not transferable to a subsequent owner. Certification by the Mayor is effective for one hundred eighty (180) days. If an owner receives certification by the Mayor and does not convert within this period, an owner may not request another tenant election or certification by the Mayor for that accommodation for one year from the date of expiration of the prior certification.

Sec. 203. Tenant Election.

(a) Notice by Owner. An owner who seeks to convert shall provide each tenant and the Mayor a written request for a tenant election by first class mail and by conspicuous

posting in common areas of the housing accommodation. A request includes, at a minimum, a summary of tenant rights, obligations, and sources of technical assistance as published in the D.C. Register by the Mayor. If Spanish is the primary language of a head of household, the owner shall provide a Spanish translation of the request.

(b) Notice by Tenant Organization. Within thirty (30) days of receipt of the owner's request for an election, the tenants shall establish a tenant organization, if one does not exist, and shall provide each tenant, the owner, and the Mayor a written notice of the election by first class mail and by conspicuous posting in common areas of the housing accommodation. Notice includes, at a minimum, the date, time and place of the election, and a summary of tenant rights, obligations and sources of technical assistance as published in the D.C. Register by the Mayor.

(c) Conduct of the Election. Within sixty (60) days of receipt of an owner's request for an election, a tenant organization shall conduct an election. If notice of an election is not provided as required by this section, or upon request of a tenant or an owner, the Mayor may provide notice and conduct an election within sixty (60) days of receipt of an owner's request.

(d) Qualified Voter. A head of household residing in each rental unit of the housing accommodation is qualified to vote unless the household has resided in the accommodation for less than ninety (90) days before the election or

unless a member of the household is an employee of the owner.

(e) Absentee Ballot. A head of household unable to attend the election may submit, prior to the election, a signed absentee ballot or sworn statement of agreement or disagreement with the conversion.

(f) Notification of Election Results. The tenant organization shall notify the owner and the Mayor of the results of the election within three (3) days.

(g) Election Audit. The Mayor may audit an election and take measures to preserve the integrity of election results.

(h) Coercion Prohibited. An owner and tenant organization shall not coerce a household in order to influence the head of that household's vote. Coercion includes, but is not limited to, knowing provision of inaccurate information; frequent visits or calls over the objection of that household; threat of retaliatory action; an act or threat not otherwise permitted by law which seeks to recover possession of a rental unit, increase rent, decrease services, increase the obligation of a tenant or cause undue or unavoidable inconvenience, harass or violate the privacy of the household; refusal to honor a lease provision; refusal to renew and lease or rental agreement; and any other form of threat or coercion.

(i) Compliance Approved. If the heads of households from more than fifty (50) percent of the units vote in

approval of conversion, or if an election is not held within sixty (60) days of receipt of an owner's request, the Mayor may certify compliance with this section for purposes of conversion.

(j) Compliance Not Approved. If the heads of households from (50) percent or less of the units vote in approval of conversion, or if an election is invalidated by the Mayor because of fraud or coercion on the part of the owner, the Mayor shall not certify compliance with this section for purposes of conversion, and an owner may not request another tenant election for that accommodation for one (1) year from the date of the election.

Sec. 204. Conversion Fee.

(a) Amount. An owner who seeks to convert shall pay the Mayor a conversion fee of four (4) percent of the declared sales price for each unit or share within the housing accommodation. If a unit or share is sold for more than the declared sales price, the conversion fee on that increment of value becomes a lien on the property which the Mayor may collect in the manner provided for collection of property taxes.

(b) Waiver of Fee. The Mayor may waive the conversion fee down to fifty (50) dollars per unit or share if the owner declares the intent to sell or provide a lease or lease option for at least five (5) years to at least fifty-one (51) percent of the tenants who, at the time of request

for an election, are low-income and whose continued tenancy is not required by statute. To qualify under this waiver, a sale or lease cannot require monthly payments greater than existing rents, as may be increased under the Rental Housing Act of 1977 as amended, or twenty-five (25) percent of gross household income, whichever is greater. The number of low-income tenants is the number identified by the tenant organization or the Mayor within sixty-five (65) days of receipt of an owner's request for an election. If the owner does not sell or lease to at least fifty-one (51) percent of the low-income tenants as declared, a conversion fee of four (4) percent of the sales price for all units or shares, less the amount of fees previously paid for the accommodation, becomes a lien on the property which the Mayor may collect in the manner provided for collection of property taxes.

(c) Waiver of Lien. The Mayor may waive a conversion fee lien on a unit or share purchased by a low-income tenant.

Sec. 205. Cooperative Conversion.

(a) Notice of Conversion. An owner shall provide each tenant with written notice of intent to convert of at least one hundred twenty (120) days by first class mail and by conspicuous posting in common areas of the housing accommodation. An owner shall not provide notice prior to the Mayor's certification of compliance for purposes of cooperative conversion.

(b) Tenant Opportunity to Purchase Unit. An owner

shall make to each tenant of the housing accommodation a bona fide offer of sale of the rental unit which the tenant occupies. An offer includes, at a minimum, the asking price for the unit and a summary of tenant rights and sources of technical assistance as published in the D.C. Register by Mayor. An owner shall afford the tenant at least sixty (60 days in which to make a contract to purchase the unit at a mutually agreeable price and under mutually agreeable terms. An owner shall not provide notice prior to the Mayor's certification of compliance for purposes of cooperative conversion.

(c) Notice to Vacate. An owner shall not serve a notice to vacate until at least ninety (90) days after the tenant received notice of intention to convert, or prior to expiration of the sixty (60) day period of notice of opportunity to purchase.

Sec. 206. Notice of Condominium Conversion. Section 408(b) of the Condominium Act is amended by striking the words "later than ten days after" and substituting therefor the words "prior to."

Sec. 207. Elderly Tenancy.

(a) Eviction Limited. Notwithstanding another provision of this act, the Condominium Act, or the Rental Housing Act of 1977 (D.C. Law 2-54), an owner shall not evict or send notice to vacate a low-income elderly tenant unless:

(1) the tenant violates an obligation of the tenancy and fails to correct the violation within thirty (30) days after receiving notice of the violation from the owner;

(2) a court of competent jurisdiction has determined that the tenant has performed an illegal act within the rental unit or housing accommodation; or

(3) the tenant fails to pay rent.

(b) Rent Level. An owner who converts a housing accommodation into a cooperative or condominium shall not charge a low-income elderly tenant rent in excess of the lawful rent at the time of request for a tenant election for purposes of conversion plus annual increases on that basis authorized under the Rental Housing Act of 1977 (D.C. Law 2-54).

(c) "Elderly tenant," for purposes of this section, includes a tenant household in which the head of household a spouse, or the brother or sister of a spouse is 62 years of age or older. The number of low-income elderly tenants is that number on the day an owner requests a tenant election for purposes of conversion.

Sec. 208. Property Tax Abatement. The Mayor shall not require an owner who converts a housing accommodation into a condominium or cooperative to pay real property tax on the proportionate value of units occupied by low-income tenants.

Sec. 209. Rule-Making. The Mayor shall make rules for the implementation of this title.

Sec. 210. Effective Date. This title takes effect after the thirty (30) day period of Congressional review of acts of the Council of the District of Columbia as provided in section 602 (c) of the District of Columbia Self-Government and Governmental Reorganization Act as amended (Dec. 24, 1973; P.L. 93-198; 87 Stat. 814; 1 D.C. Code 147 (c)). This title applies to conversion of housing accommodations into condominium or cooperative status for which no notice of filing is issued pursuant to section 406 of the Condominium Act or for which no articles of incorporation are filed pursuant to the Cooperative Act prior to the effective date of this title.

TITLE III

RELOCATION AND HOUSING ASSISTANCE

Sec. 301. Relocation Payment.

(a) Payment Required. If an owner converts a housing accommodation into a condominium or cooperative, the owner shall provide a relocation payment to each tenant who does not purchase a unit or share or enter into a lease or lease option of at least five (5) years duration.

(b) Amount of Payment. An owner shall pay the tenant an amount justified by relocation expense receipt or by a written estimate from a moving company or other relocation service provider. Regardless of receipts or written estimates, the owner shall pay no less than one hundred twenty-five (125) dollars, but is not required to pay more than five hundred (500) dollars to the tenant.

(c) Method of Payment. An owner may pay by check or cash to the tenant or person designated by the tenant, and shall pay within seven (7) days of receipt of the written estimate or receipt.

(d) Entitlement to Receive Payment.

(1) The tenant who bears the cost of relocation is entitled to the payment. If there is more than one tenant who bears the cost of relocation from a unit, the owner shall pay the tenants in equal proportion.

(2) The owner is not required to make a relocation payment to a tenant against whom the owner has obtained a judgement for possession of the unit.

(3) If an owner does not make a relocation payment as required, the tenant has a private right of action to collect the payment and attorney fees.

Sec. 302. Relocation Services.

(a) Services Required. The Mayor shall provide relocation assistance to low-income tenants who move from a housing accommodation which is converted into a condominium or cooperative. The Mayor shall provide service in the manner required by section 209 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Jan. 2, 1971; 84 Stat. 1899; 5 D.C. Code 732a).

(b) Nature of Services. Section 209 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Jan. 2, 1971; 84 Stat. 1899; 5 D.C. Code 732a) is amended by (1) redesignating section 209 as "209 (a)" and (2) by adding the following new subsection:

"(b) (1) If a housing accommodation in the District is converted into a condominium or cooperative, substantially rehabilitated or demolished, or discontinued from housing use, the Mayor shall provide relocation services in the manner required by subsection (a) of this section to low-income tenants who move from the accommodation. Services include, at a minimum, ascertaining the relocation needs for each household, providing current information

on the availability of comparable housing of suitable size, supplying information concerning federal and District housing programs; and providing counselling to displaced persons in order to minimize hardships in adjusting to relocation.

(2) For purposes of this section, "comparable housing" means rental or homeownership units with equivalent benefits and services included in the monthly payments

(3) For purposes of this section, "suitable size" means for a (1) person family, an efficiency unit; for a two (2) person family; a one (1) bedroom unit; for a family of three (3) or four (4) persons, a two (2) bedroom unit; for a family of five (5) or six (6) persons, a three (3) bedroom unit; and for a family of seven (7) or more persons, a four (4) bedroom unit. In addition, the suitable size is increased as necessary to allow children and unmarried adults of the opposite sex to have separate sleeping rooms. In determining suitable size, one (1) person living in a one (1) bedroom unit is eligible for relocation in a one (1) bedroom comparable unit."

Sec. 303. Housing Assistance Payments.

(a) Payment Required. If an owner converts a housing accommodation into a condominium or cooperative, the Mayor shall provide housing assistance payment for three (3) years

to each low-income tenant who does not purchase a unit or share.

(b) Eligibility. In order to receive housing assistance payments, the low-income tenant must:

(1) apply for the assistance,

(2) have been living in a rental unit within the converted housing accommodation for at least one hundred eighty (180) days prior to receipt of an owner's request for a tenant election for purposes of conversion, and

(3) reside within the District after conversion of the accommodation.

(c) Amount of Assistance. The amount of a housing assistance payment is calculated as follows:

(1) If a household's average monthly housing expenses during the twelve (12) consecutive months prior to conversion are less than twenty-five (25) percent of net monthly household income, the amount of a monthly housing assistance payment is the difference between twenty-five (25) percent of net monthly household income and the projected average monthly housing expenses after conversion.

(2) If a household's average monthly housing expenses during the twelve (12) consecutive months prior to conversion are more than twenty-five (25) percent of net monthly household income, the amount of a monthly housing assistance payment is the difference between the prior average monthly

housing expenses and the projected average monthly housing expenses after conversion.

(3) For purposes of this section, "housing expenses" include rent or monthly payment for a unit plus the cost of all utilities if not included in the rent or monthly payment. A security deposit is not included. The Mayor is not required to consider housing expenses which exceed the level of fair market rents established by the federal Department of Housing and Urban Development for the District.

(4) The Mayor may review the eligibility of a household and the amount of payments and change the household's status accordingly.

(d) Method of Payment.

(1) The Mayor may make housing assistance payments on a monthly basis or an aggregate basis for any portion of the period of eligibility. An aggregate payment is calculated by multiplying the monthly payment amount by the number of months desired.

(2) The Mayor may contract with a financial institution in the District of Columbia for provision of housing assistance payments with District funds.

(3) The Mayor may provide housing assistance payments to the tenant, or to the tenant's landlord directly.

Sec. 304. Payments Not Subject to D.C. Tax. Relocation and housing assistance payments are not income to the recipient for purposes of the District of Columbia Income and

Franchise Tax Act of 1947 as amended (July 16, 1947; 61 Stat. 331; 47 D.C. Code 1551 et seq.).

Sec. 305. Notice to Tenants. The Mayor shall include tenant rights to relocation payments, relocation services, and housing assistance payments in a summary of tenant rights required for publication in the D.C. Register by this act. When an owner sends notice of intention to convert a housing accommodation into a condominium or cooperative, the owner shall attach to that notice a summary of tenant rights under this title and an application for relocation services and housing assistance payments as published in the D.C. Register by the Mayor.

Sec. 306. Housing Assistance Fund.

(a) Creation of Fund. The Mayor shall deposit revenues from collection of the condominium or cooperative conversion fee in a special fund for purposes of housing assistance to low-income persons.

(b) Authorized Uses. The Mayor may spend revenues from the special fund for providing housing assistance payments as required by this act and for other purposes as authorized by resolution of the Council of the District of Columbia.

(c) Appropriation. The Mayor shall request an appropriation in the annual budget of the District of revenues within the special fund for its authorized purposes.

(d) Termination. If the Council does not by act perpetuate the special fund by the end of the fifth (5th) fiscal year following the effective date of this title, the special fund is dissolved and its revenues revert to the general fund of the District. During the life of the special fund, however, its revenues do not revert to the general fund at the end of a fiscal year.

Sec. 307. Information and Technical Assistance. The Mayor shall establish an office to coordinate programs of technical assistance and serve as a central clearinghouse for information needed by tenants regarding the conversion and sale of rental housing. Program areas for this office include, but are not limited to, counseling, subsidy programs, relocation services, housing purchase and rehabilitation finance, tax relief programs, and technical assistance for the formation of tenant organizations, purchase of housing accommodations, rehabilitation, and conversion to cooperative or condominium.

Sec. 308. Rule-Making. The Mayor shall make rules for the implementation and interpretation of this title.

Sec. 309. Effective Date. This title takes effect after the thirty (30) day period of Congressional review of acts of the Council of the District of Columbia as provided in section 602 (c) of the District of Columbia Self-Government and Governmental Reorganization Act as amended (Dec. 24, 1973; P.L. 93-198; 87 Stat. 814; 1 D.C. Code 147 (c)).

TITLE IV

TENANT OPPORTUNITY TO PURCHASE

Sec. 401. Repealer Clause. Title VI of the Rental Housing Act of 1977 as amended (D.C. Law 2-54) is repealed.

Sec. 402. Existence of Tenant Opportunity to Purchase. Before an owner of a housing accommodation may

(a) sell the accommodation;

(b) issue a notice of intent to recover possession for purposes of discontinuance of housing use or demolition;

(c) issue a notice of intent to recover possession for purposes of conversion to condominium or cooperative form of ownership; or

(d) issue a notice to vacate on account of sale, discontinuance of housing use, or demolition;

the owner shall give the tenant an opportunity to purchase the accommodation at a price and terms which represent a bona fide offer of sale.

Sec. 403. Offer of Sale. The owner shall provide each tenant and the Mayor a written copy of the offer by first-class mail and by conspicuous posting in common areas of the accommodation if it consists of more than one unit. An offer includes, at a minimum:

(a) the asking price and material terms of the sale;

(b) a statement that the tenant has the right to purchase the accommodation under this act and a summary of tenant rights and sources of technical assistance as published in the D.C. Register by the Mayor;

(c) a statement as to whether a contract with a third party exists for sale of the accommodation and that the owner shall make a copy available to the tenant within seven (7) days after receiving a request; and

(d) a statement that the owner shall make available to the tenant an itemized list of monthly operating expenses, utility consumption rates, and capital expenditures for each of the two preceeding calendar years within seven (7) days after receiving a request. The owner shall provide information in sufficient detail to enable the tenant to make an accurate cost estimate in support of an application for financing or financial assistance.

Sec. 404. Third Party Rights. The right of a third party to purchase an accommodation is conditional upon exercise of tenant rights under this act. The running of time periods within a third party contract prior to expiration of tenant contract time periods under this act (including time extensions granted by the owner) is against the public policy of securing tenant rights to the maximum extent permissible

under law and is void. Third party purchasers are presumed to act with full knowledge of tenant rights and public policy under this act.

Sec. 405. Contract Negotiation.

(a) Bargaining in Good Faith. The tenant and owner shall bargain in good faith. The following constitute prima facie evidence of bargaining without good faith:

(1) the failure of an owner to offer the tenant a price or term at least as favorable as that offered to a third party without a reasonable justification for so doing;

(2) the failure of an owner to make a contract with the tenant which substantially conforms with the price and terms of a third party contract without a reasonable justification for so doing;

(3) the failure of a tenant or an owner to comply with the provisions of this act.

(b) Deposit. The owner shall not require the tenant to pay a deposit of more than five (5) percent of the contract sales price in order to make a contract. The deposit is refundable in the event of a good faith failure of tne tenant to perform under the contract.

(c) Price. The owner shall not require the tenant to agree to a price greater than appraised value unless justified by a material advantage or material concession by the owner with respect to other terms. Appraised value is established by an independent appraisal under contemporaneous zoning, building or occupancy permits and right to convert to another use. If more than one independent appraisal is available, value is established by the average. The owner may require up to ten (10) percent above appraised value if a contract with a third party substantiates such a price.

Sec. 406. Assignment and Tenant Partners. The tenant may exercise rights under this act in conjunction with a third party. The tenant may assign rights under this act to an agency or instrumentality of the District or Federal government.

Sec. 407. Waiver of Rights. An owner shall not request, and a tenant may not grant, a waiver of the right to receive an offer to purchase under this act. An owner shall not require waiver of any other right under this act; waiver of any other right without the written consent of all tenants (in accommodations with four (4) or less units), or of the tenant organization following approval by its membership (in accommodations with five (5) or more units), is not effective.

Sec. 408. Single-Family Accommodations. The following provisions apply to single-family accommodations.

(a) Negotiation Period. The owner shall afford the tenant a reasonable period to negotiate a contract of sale, and shall not require less than sixty (60) days. For every day of delay (or fraction thereof) in providing information by the owner as required by this act, the negotiation period is extended by a day.

(b) Time Before Settlement. The owner shall afford the tenant a reasonable period prior to settlement in order to secure financing and financial assistance, and shall not require less than sixty (60) days after the date of contracting. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within ninety (90) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(c) Lapse of Time. If one hundred-eighty (180) days elapse from the date of a valid offer under this act and the owner has not sold or contracted for the sale of the accommodation, the owner shall comply anew with the terms of this act.

Sec. 409. Accommodations with Two through Four Units. The following provisions apply to accommodations with two through four units.

(a) Joint or Several Response. The tenants may respond to an owner's offer either jointly or severally.

(b) Negotiation Period. The owner shall afford the tenants a reasonable period to negotiate a contract of sale, and shall not require less than ninety (90) days. For every day of delay (or fraction thereof) in providing information by the owner as required by this act, the negotiation period is extended by a day.

(c) Time Before Settlement. The owner shall afford the tenants a reasonable period prior to settlement in order to secure financing and financial assistance, and shall not require less than ninety (90) days after the date of contracting. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within one hundred-twenty (120) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(d) Lapse of Time. If two hundred-forty (240) days elapse from the date of a valid offer under this act and the owner has not sold or contracted for the sale of the accommodation, the owner shall comply anew with the terms of this act.

Sec. 410. Accommodations with Five or More Units. The following provisions apply to accommodations with five (5) or more units.

(a) Tenant Organization.

In order to make a contract of sale with an owner, the tenants shall:

(1) form a tenant organization, elect officers, and adopt by-laws;

(2) file articles of incorporation within 30 days of receipt of a valid offer; and

(3) deliver a statement of registration to the Mayor and the owner by hand or by first class mail within 45 days of receipt of a valid offer. The registration includes the name, address, and phone number of tenant officers and legal counsel (if any); a copy of the articles of incorporation; a copy of the by-laws; and documentation that the organization does represent at least fifty (50) percent of the occupied rental units. Upon delivery of the registration, the organization constitutes the sole representative of the tenants, and the prior offer to purchase is deemed an offer to the organization.

(b) Negotiation Period. The owner shall afford the tenants a reasonable period to negotiate a contract of sale, and shall not require less than one hundred-twenty (120) days. For every day of delay (or fraction thereof) in providing information by the owner as required by this act, the negotiation period is extended by a day.

(c) Time Before Settlement.

(1) The owner shall afford the tenants a reasonable period prior to settlement in order to secure financing and

financial assistance, and shall not require less than one hundred-twenty (120) days after the date of contracting. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within two hundred-forty (240) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(2) If the tenant organization articles of incorporation provide, by the date of contracting, that the purpose of the tenant organization is to convert the accommodation to a non-profit housing cooperative with appreciation of share value limited to a maximum of the annual rate of inflation, the owner shall require not less than one hundred-eighty (180) days after the date of contracting and such additional time as required by this section.

(d) Lapse of Time If three hundred-sixty (360) days elapse from the date of a valid offer under this act and the owner has not sold or contracted for the sale of the accommodation an owner shall comply anew with the terms of this act. In such a case, the tenant organization shall also comply anew with respect to delivery of a registration statement; the original tenant articles of incorporation, officers and by-laws remain effective unless defective under their own terms or other provisions of law.

Sec. 411. Remedies. If an owner does not bargain in good faith, the tenant or tenant organization has a private right of action in law or equity to enforce the terms of this

act or to seek compensation for damages or attorney fees. In an equitable action, the public policy of this act favors the waiver of bond requirements where permissible under law.

Sec. 412. Fact-Finding and Declaratory Orders. The Mayor shall designate a senior hearing officer who is an employee of the District government and a member of the bar of the D.C. Court of Appeals. The hearing officer may render declaratory, provisional and final orders upon application of a tenant, an owner, or the District government, which are binding on the parties until the hearing officer or a reviewing court holds otherwise. Hearings and judicial review of orders under this section are governed by the contested case provisions of the District of Columbia Administrative Procedure Act as amended (Oct. 21, 1968; P.L. 90-614; 82 Stat. 1204; 1 D.C. Code 1501 et seq.).

Sec. 413. Rule-Making. The Mayor shall make rules for the implementation and interpretation of this title.

Sec. 414. Statutory Construction. The purpose of this act is to strengthen the bargaining position of tenants to the maximum extent permissible under law. The legislative purpose favors resolution of ambiguity by the hearing officer or a reviewing court toward this end. If this act conflicts with another provision of law of general applicability, this act controls.

Sec. 415. Time Periods. If a time period running under this act ends on a Saturday, Sunday or legal holiday, it is

extended until the next day which is not a Saturday, Sunday or legal holiday.

Sec. 416. Effective Date. This title takes effect after the thirty (30) day period of Congressional review of acts of the Council of the District of Columbia as provided in section 602 (c) of the District of Columbia Self-Government and Governmental Reorganization Act as amended (Dec. 24, 1973; P.L. 93-198; 87 Stat. 814; 1 D.C. Code 147 (c)). This title applies to all contracts of sale and parties to contracts of sale which are not signed by all parties before the effective date.

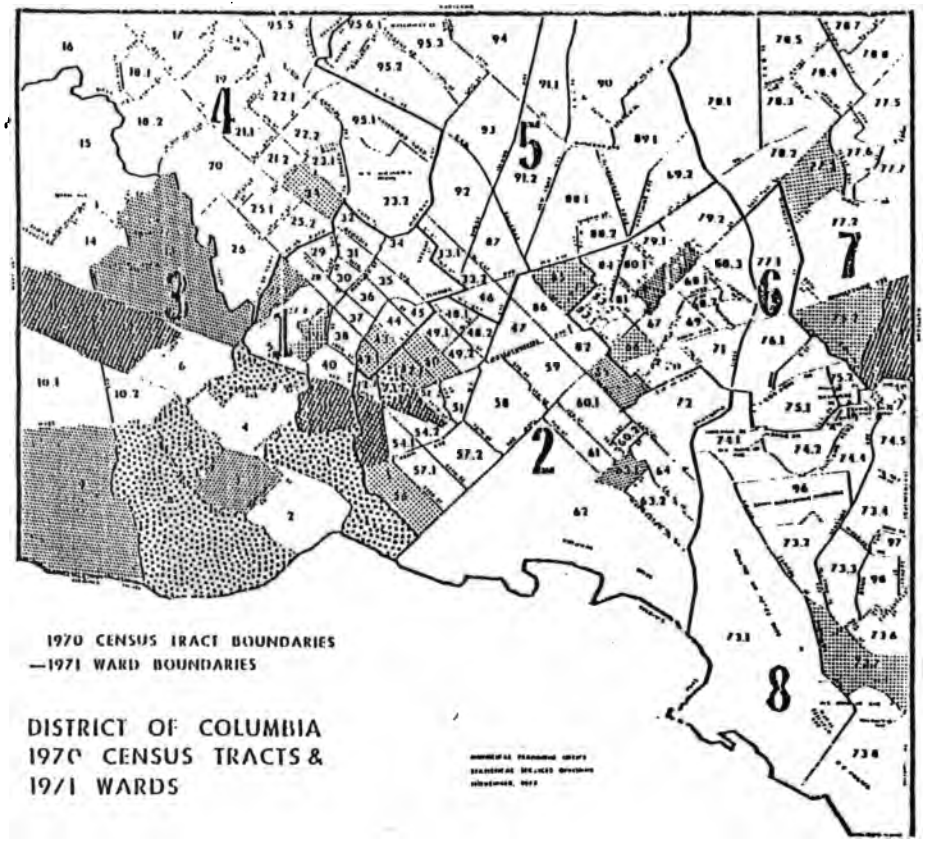
I: What Percentage of the Rental Stock has been Converted? No. and Percentage of 1970 Rental Stock with Registrations by Ward 9/30/74 - 5/18/79

	No. of Rental Units, 1970(1)	No. of Converted Units (2)	Percentage of Rental Units converted
	198,973	6,596	3.3
	32,884	854	2.6
	41,549	1,636	3.9
	26,185	3,094	11.8
	14,314	13	0.1
	16,785	0	0.0
	22,095	153	0.7
	21,025	838	4.0
	24,136	8	0.0

Source: U.S. Census of Population and Housing 1970, PHC) - 226, Table H-1.

Source: "Condo Log" September 30, 1974 to May 18, 1979, D.C. Department of Housing and Community Development.

MAP # 1 : WHAT PERCENTAGE OF THE 1970 RENTAL STOCK HAS BEEN CONVERTED T.. CONDOMINIUMS BY CENSUS TRACT ?

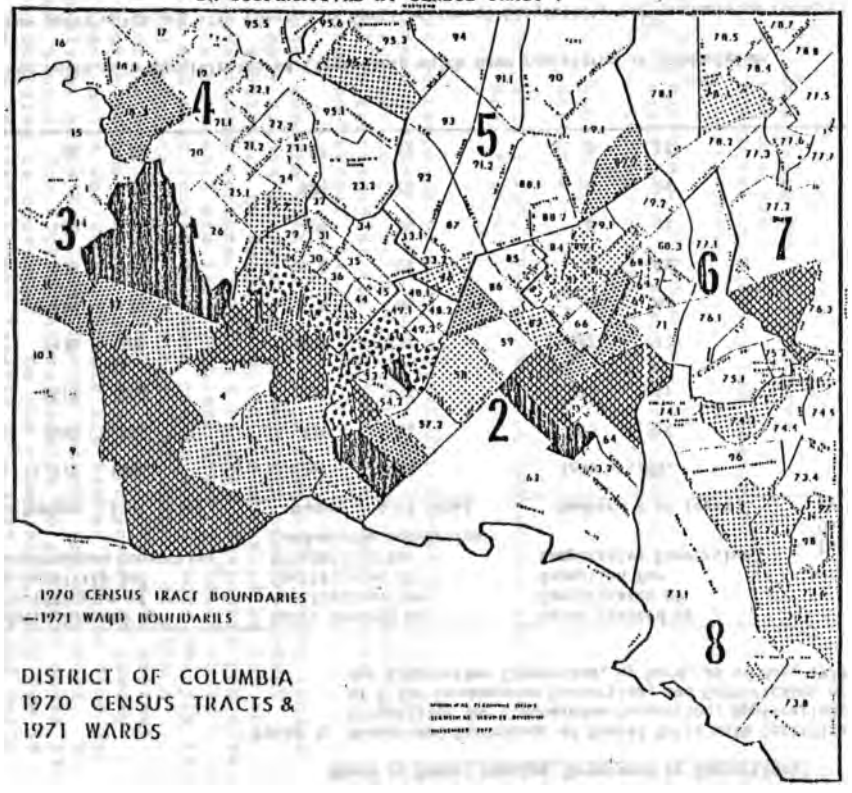


WARD	NUMBER OF UNITS CONVERTED	% OF TOTAL CONVERSIONS
CITY TOTAL	6596	100%
WARD 1	854	13%
WARD 2	1636	25%
WARD 3	3094	47%
WARD 4	13	#
WARD 5	0	0%
WARD 6	153	2%
WARD 7	838	13%
WARD 8	8	#

= less than 0.5%

Source: "Condo Log" dates D.C. Department of Housing and Community Development

MAP # 2 : WHAT PERCENTAGE OF THE 1970 RENTAL STOCK IS THREATENED WITH CONVERSION TO CONDOMINIUM OR COOPERATIVES BY CENSUS TRACT ?



LEGEND

- 0.1 - 4.9 % of Rental Stock Threatened
- 5.0 - 9.9 % of Rental Stock Threatened.
- 10.0 - 19.9 % of Rental Stock Threatened
- 20.0 - 49.9 % of Rental Stock Threatened
- 50.0 % or More of Rental Stock Threatened

Where is Rental Housing Threatened by Conversions?

Table 4: Number and Percentage of Rental Units with Certificates of Eligibility for Condominium Conversion, Applications for C's of E for Condominium Conversion, and Certificates of Exemption for Cooperative Conversion, by Ward, as of May, 1979.

Ward	Units Covered by Certificates of Eligibility for Condominium Conversion[1]		Units Covered by Applications for Certificates of Eligibility for Condominium Conversion		Units Covered by Certificates of Exemption for Cooperative Conversion[2]		Total Number of Units Threatened by Conversion	Percent of Units Threatened by Conversion
	Number	% of Total	Number	% of Total	Number	% of Total		
City Total	11,270	100%	5767	100%	1200	100%	18,237	100%
Ward 1	1649	15%	371	6%	373	31%	2393	13%
Ward 2	5614	50%	2831	49%	377	31%	8822	48%
Ward 3	3436	30%	1685	29%	442	37%	5563	31%
Ward 4	219	2%	0	0%	0	0%	219	1%
Ward 5	136	1%	0	0%	0	0%	136	1%
Ward 6	120	1%	109	2%	0	0%	229	1%
Ward 7	0	0%	684	12%	0	0%	684	4%
Ward 8	96	1%	87	2%	8	1%	191	1%

[1] Does not include units with Certificates of Eligibility which have registered as condominiums.

[2] Does not include units which are also covered by Certificates of Eligibility for condominium conversion.

Source: "Condo Log." September 30, 1974 to May 18, 1979. and "Coop Log." April 13 1977 to May 4, 1979, D.C. Department of Housing and Community Development.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
WASHINGTON, D.C.

M E M O R A N D U M

DATE: APR 10 1980

TO: Honorable Willie J. Hardy
Chairperson
Committee on Housing and Economic
Development

THRU: Barbara C. Washington
Assistant City Administrator for
Intergovernmental Relations

FROM: Robert L. Moore
Director

SUBJECT: Bill 3-222, "Rental Housing Conversion and Sale Act of 1979"

This is in response to your request for a statement by this Department on the effectiveness of Bill 3-222, particularly as it relates to the recommendations which the Department offered in testimony at the public hearing before your Committee on February 14, 1980.

Our major concern with Bill 3-222 is that a statutory scheme which only allows conversions by majority tenant consent causes developers to focus on buildings occupied by low and moderate income renters. This is because developers perceive that these tenants are less sophisticated regarding their rights and that tenant consents can be bought more cheaply in low and moderate rental buildings. The effect of such a statutory scheme as is proposed by Bill 3-222 is to protect the higher income tenants and prevent conversion of luxury apartment units where the tenants are better able to fend for themselves, while the lower income tenants are displaced. It is not unusual for higher income tenants to purchase units if their building is converted. On the other hand, very few if any low or moderate income tenants have ever purchased units in a condominium conversion by a developer. My staff has noted these effects during the moratorium, which allows conversions only under the tenant consent provision of the Condominium Act.

We strongly urge the adoption of a policy which provides protection against displacement for low and moderate income tenants while allowing the market forces to operate unhindered above a newly defined high rent level, so long as the developer meets the basic requirements for relocation and fees. The two-pronged approach which we recommend will be much more effective in protecting those residents who can least afford to face conversion and displacement.

Besides the above-mentioned difference in approach, there are a few other areas in the proposed legislation (Bill 3-222) which concern us. One is the provision for a tenant organization-held election. Our reaction to this is again based on the actual experiences of the Department's Condominium/ Cooperative Office. We are concerned about the amount of election monitoring the staff members would be required to do. Department staff would become the arbitrators and referees between tenants and the landlord, and between different tenant factions in the building. Being placed in such a situation could impact on our ability to appear unbiased in any later decisions on the property. In addition, we anticipate that it would require at least two staff persons in attendance at each meeting. Presently we have only two professional-level slots in our Condominium/Cooperative Office to administer the current Condominium and Cooperative regulations. Our current method of processing tenant consent applications is adequate. We personally verify the consents and provide tenants with the opportunity for a hearing on the application before a decision is made. This process has successfully uncovered instances of coercion and other abuses of the law.

While we agree with the concept of a tax on condominium units, we believe the proceeds of such a tax should go to aid low and moderate income tenants in the purchase and conversion of their buildings. These conversions, which eliminate the middle-man profit taken by the developer, should be encouraged as viable homeownership opportunities. The tenant right to purchase is one of the most important factors in any city policy to control displacement. Our focus must be on insuring that tenants have the tools and resources to move quickly through the steps of purchasing their building. Funnelling the tax collected to home purchase assistance and technical assistance funds would provide resources for tenant purchases. Bill 3-222 proposes to use the tax collected as a relocation and rent subsidy pool. We believe that expenses should be born directly by the

developer. A developer should be required to provide for each and every tenant that is to be displaced. We recommend that a tenant impact statement and plan for relocation be part of any application for conversion.

While we strongly support the thrust of the tenant right to purchase provisions of Bill 3-222, we think that time periods for negotiations and settlement should be reasonable. The total time contemplated in Bill 3-222 could run longer than 400 days (see Section 410 of Bill 3-222), which is an excessive time to tie up property.

Based on a recent telephone request made by a member of your staff on specific fiscal impact data pertaining to the housing assistance payment provisions, we offer the following comments. I have also provided under separate cover to you a copy of our response to similar questions raised by Councilmember John Ray subsequent to the February 14th public hearing.

After a preliminary review, the Department has determined that the four percent tax contained in Bill 3-222 will most likely be adequate to cover the housing assistance payments for those eligible displaced tenants for three years. The Department's staff which makes these eligibility determinations has found that at the present time housing assistance payments average $50 per month. Bill 3-222 requires that these payments be made for three years. Thus, at $50 a month the average cost over a three-year period would be $1800 per unit.

Let me point out here that moving expenses are separate in Bill 3-222 and are to be paid directly by the owner. We strongly concur with this, as this would allow the owner to make payments expeditiously to all displacees. Further, as noted earlier in this memorandum, the Department recommends that the owner pay directly the housing assistance payments to eligible displacees, and that the four percent tax be used to assist tenants in the purchase of their units.

Based on our current experience, it would be very unusual for every unit to be eligible for housing assistance payments when the eligibility is based on median annual income for the District of Columbia as current law and Bill 3-222 require. We recommend that the income eligibility be based on the Section 8 "lower" income definition, in order to increase the number of eligible households. As you will note in the attached table, the D.C. median annual income would result in only a very limited number of displaced tenants qualifying for the housing assistance payments. We have further determined that by

using the Section 8 criteria, the current four percent tax on units will still be sufficient to pay housing assistance payments if applied.

In a survey of our ten most recently registered properties, two were new construction projects. Under Bill 3-222, the new units would not be taxed. The average price of these new construction condominium units is $163,000. Of the eight converted condominium projects, the average price per unit is $98,000. This would yield a tax of $3,920 per unit. Since the average maximum projected requirement for housing assistance is $1,800 over a three-year period, each unit would theoretically provide a surplus of at least $2,120. See Chart I.

CHART I

Average Price Per Unit	Tax	Average Housing Assistance Payment	Surplus
$98,000	$3,920	$1,800	$2,120

Chart II profiles the highest and lowest cost per unit of the conversion condominiums in the survey using the same tax and average housing assistance payment variables. The difference in price relates to unit size, amount of rehabilitation done and location.

CHART II

Highest Per Unit Price	Tax	Lowest Per Unit Price	Tax
$133,000	$5,320 (+$3,520)	$37,500	$1,500 (-$300)

As you can see from Chart II above, the higher cost units yield a greater surplus for the Housing Assistance Fund. Thus, any deficits occurring in the lower priced units relating to the average amount of housing assistance payments per unit, would more than be offset by the surplus from the higher priced units.

Finally, we continue to recommend, as current law provides, the provision for registration fees (currently $37 per unit for a registered condominium) to support the costs of administering the housing assistance payments provisions. Our review indicates that the current $37 per unit fee is sufficient if the current approach to conversion regulation is not substantially changed.

I will be glad to provide any further information or clarification on any of these items if needed.

Attachments

cc: Barbara C. Washington

Comparison of Income Eligibility Methods for Housing Assistance Payments

D.C. Median Income (Effective May 8, 1979 Based on Median Income of $17,757 for a family of 4 for D.C.)		Section 8 Lower Income Limits (Effective July 31, 1979. Based on estimated median income of $24,200 for a family of 4 for the D.C. SMSA.)	
Household Size	Median Income	Household Size	Sec. 8 Lower Income
1	8,879	1	13,550
2	10,654	2	15,500
3	15,981	3	17,400
4	17,757	4	19,350
5	19,533	5	20,000
6 or more	21,308	6	21,800
		7	23,000
		8 or more	24,200

*Elderly and handicapped $15,981 (for 1 or 2 person household containing 60 years or older or handicapped as defined in regulations by the Mayor.)

Government of the District of Columbia
OFFICE OF THE CORPORATION COUNSEL
DISTRICT BUILDING
WASHINGTON, D. C. 20004

IN REPLY REFER TO:

April 21, 1980

The Honorable Willie J. Hardy
Council of the District of Columbia
District Building
Washington, D.C.

Dear Councilmember Hardy:

In response to your request, I have attached a memorandum which concludes that the requirement of majority tenants consent contained in Bill 3-222 would not appear to be confiscatory. This conclusion is reached, however, on the basis that definitive data is available to describe the conditions requiring such a provision and that the bill will be amended to include appropriate specific findings and objectives, and limitations on the need for restrictions upon conversions.

Precedent in this area is scarce and since the attached memorandum has surveyed the field, I thought it would be of assistance to you. How the District of Columbia courts will ultimately rule on the legislation finally passed by the Council is, obviously, an open question. But if the suggestions contained in the attached analysis are seriously addressed, we think, on balance, that a constitutional challenge could be overcome.

Inasmuch as Councilmember Ray has made an identical request, I have also sent this letter to him.

Sincerely,

Judith W. Rogers
Corporation Counsel, D.C.

Attachment

D.C.-44
May 1967

Memorandum • Government of the District of Columbia

Department: HD:KJK:kp
TO: Judith W. Rogers
Corporation Counsel, D.C.
Agency. Office: Corp. Counsel

FROM: James R. Murphy
Assistant Corporation Counsel, D.C.
Date: March 11, 1980

SUBJECT: Comments On Proposed Bill 3-222 Requiring Approval of a Majority of Tenants for Conversion of Rental Housing to Condominiums or Cooperatives

You have requested the comments of the RLA Section of the Housing Division on Section 202 of Bill 3-222 which would prohibit an owner from converting rental housing to a condominium or cooperative without the approval of a majority of the tenants.

Restrictions on the conversion of rental housing in the District have existed in various forms since August of 1974, in the case of condominiums, and February of 1976 in the case of cooperatives. 1/ Under current law, "low-moderate-rent" housing cannot be converted to condomoniums unless the vacancy rate for "low-moderate-rent" units exceeds 3%, or unless a

1/ An emergency moratorium on condominium conversions in the District was enacted in August of 1974. Reg. No. 74-23, Aug. 30, 1974, 21 DCR 436. This moratorium was extended five times before it was superceded by the provisions of the Emergency Condominium Regulation Act of 1976, D.C. Act 1-144, July 30, 1976, 23 DCR 1223, reenacted as the Condominium Act of 1976. Reg. No. 769, Oct. 4, 1974, 21 DCR 584; Condominium Conversion Moratorium Extension Act, D.C. Act 1-17, July 23, 1975, 21 DCR 3729; Horizontal Property Regime Regulation Extension Act, D.C. Act 1-10, July 25, 1975, 22 DCR 1286; Second Horizontal Property Regime Regulation Extension Act, D.C. Law 1-40, 1975, 22 DCR 3305; Second Emergency Condominium Conversion Moratorium Extension Act, D.C. Act 1-115, May 11, 1976, 22 DCR 6545. The Cooperative Regulation Act of 1979 was first enacted as emergency legislation on February 6, 1976, Emergency Cooperative Conversion Act, D.C. Act 1-90.

majority of the tenants agree to the conversion. Section 501, Condominium Act of 1976, DCC 5-1281. "Low-moderate-rent" housing cannot be converted into cooperatives unless more than one-half of the units are vacant, or unless a majority of the tenants agree to the conversion. Section 4(a), Cooperative Regulation Act of 1979, D.C. Law 3-19, effective Sept. 28, 1979. In addition, a temporary moratorium exists prohibiting conversion of "high-rent" housing to either condominiums or cooperatives unless the owner took certain specified action toward conversion prior to the imposition of the first emergency moratorium, May 1979, or unless the conversion was agreed to by a tenants' organization which has been offered an opportunity to purchase the housing pursuant to Section 602(b) of the Rental Housing Act of 1977. Section 4(a), Condominium and Cooperative Conversion Stabilization Act of 1979, D.C. Law 3-53, effective February 23, 1980.

As yet, these restrictions have not been challenged as unconstitutional. Nevertheless, since Bill 3-222 would repeal these restrictions and substitute a somewhat different provision applicable to both "high-rent" and "low-and-moderate-rent" housing, an attempt has been made to analyze the Bill in the light of a potential challenge on due process and equal protection grounds.

Unfortunately, there is little or no precedent to draw upon in making such an analysis. Although similar or more extensive restrictions have been imposed on condominium and cooperative conversion in other jurisdictions, they have rarely been challenged on constitutional grounds.

In 1974, Palo Alto, California enacted an ordinance prohibiting conversion of rental housing unless there is a vacancy surplus or unless "two-thirds of all the adult tenants lawfully in possession indicate their desire to convert such project to community housing." Chapter 21.33, Ordinance 2921, Oct. 21, 1974. Similarly, in 1978, the City of Thousand Oaks, California enacted an ordinance requiring the Planning Commission to make an affirmative finding "that fifty percent or more of the existing tenants have voted in favor of such a conversion," prior to approving a condominium

conversion project. Ordinance No. 669-NS, adding Article 19 to Chapter 4 of Title 9 Relative to Condominium Conversions, Feb. 21, 1978. 2/ The City of San Francisco has required tenant consent to conversions since 1975. In 1979, San Francisco amended its ordinance to provide that "no application for conversion will be approved unless there are substantial numbers of tenants who have indicated their intent to purchase their rental units. This intent shall be evidenced by the submittal in writing by no less than forty percent (40%) of the tenants intent to purchase forms, as provided by the Department of Public Works." (emphasis added) Ordinance No. 337-79, July 2, 1979. 3/

The State of New York has restricted evictions in connection with conversions for some time, as part of its enforcement of rent control and rent stabilization laws. Eviction of non-purchasing tenants was conditioned upon the agreement of 35% of the tenants to purchase their rental units. 4/

2/ The Thousand Oaks ordinance also requires the Planning Commission to consider whether conversion will result in a major displacement of tenants, a scarcity of rental units which would preclude reasonable mobility of tenants and tend to increase rental costs, or the diminishment of objectives which encourage open occupancy and promote low and moderate income housing. Similar provisions are included in an ordinance adopted by Walnut Creek, California, where the Planning Commission may not approve an application to convert unless the conversion "will not displace a significant percentage of low-and moderate income or senior citizen tenants and delete a significant number of low-and moderate-income rental units from the City's housing stock at a time when no equivalent housing is readily available in the Walnut Creek area." Ordinance No. 1331, §10.1.706. Findings, Aug. 1, 1978.

3/ The San Francisco ordinance also contains an annual conversion quota of 1,000 units. Ordinance No. 337-79, §1396, Annual Limitation on Conversion.

4/ This provision was challenged by tenants who alleged that permitting evictions upon agreement of less than a majority of the tenants constituted a denial of equal protection, but was upheld when the court found that tenants had no right to indefinate renewal of their leases except as provided by statute. Kovarsky v. Housing & Develop. Admin. of City of New York, 286 N.E. 2d 882, 886 (Ct. App. N.Y. 1972)

In 1974, the 35% tenant purchase requirement was enacted as a condition for conversion, rather than eviction. N.Y. Gen. Bus. Law, §352-e (2-a)(1)(i), effective June 15, 1974. 5/ This provision expired and was replaced by a new requirement which distinguishes between "eviction" and "non-eviction" condominium and cooperative conversion plans. N.Y. Gen. Bus, Law, §352-ee, effective July 20, 1978. Under an "eviction" plan, no units may be converted until 35% of the tenants have agreed to purchase. Conversion may proceed under a "non-eviction" plan, but no tenants may be evicted for failure to purchase or for any other reason applicable to expiration of tenancy. A "non-eviction" plan may not be amended at any time to become an "eviction" plan. Despite these provisions, conversions are proceeding at a rapid pace in the City of New York, and tenants are currently lobbying to increase the tenant purchase requirement to 51%. See New York Times, March 2, 1980. 6/

Like the early New York provisions, New Jersey and Massachusetts state laws restrict evictions in connection with the conversion of rental housing. In New Jersey, tenants may not be evicted in connection with conversion to rental housing unless they have been given three years notice and a reasonable opportunity to examine and rent comparable housing.

5/ For a discussion of New York's restrictions on evictions in the conversion process and the 1974 law, see Handschuh & Cohen, Tenant Protection in Condominium Conversions: The New York Experience, 48 St. Johns L. Rev. 978 (1974).

6/ Unlike the California cities which focus on planning considerations such as the need to preserve a reasonable balance of ownership and rental housing and the need to prevent depletion of the local low or moderate income housing stock, the New York legislature is primarily concerned with protecting tenants from displacement and profiteering. See San Francisco ordinance No. 337-79, Section 1302, Purposes. July 6, 1979; City of Thousand Oaks ordinance No. 669-NS, Section 9-4.1901, Purpose and intent. Feb. 21, 1978; Palo Alto ordinance No. 2921, Section 21.33.010, Purpose of chapter and findings, Oct. 21, 1974; Oakland ordinance authorized Sept. 26, 1979, Whereas clauses; Walnut Creek ordinance No. 1331, Section 10-1.701, Purpose. July 18, 1978; and Legislative findings, N.Y. L. 1978, c. 544, § 1.

N.J.S.A. 2A:18-71 k, 18-612 g, 18-61.11, effective Feb. 19, 1976. 7/ In Massachusetts, state law specifically grants localities the option of regulating eviction of tenants under the rent control statute. Mass. St. 1970, c. 843, §6. Under the latter provision, the town of Brookline, Mass. enacted restrictions on evictions in connection with condominium conversion which were challenged on constitutional grounds. Grace v. Town of Brookline, No. 5-1743, - N.E.2d - (1979).

In Grace, supra, plaintiffs challenged an ordinance which had the effect of prohibiting evictions by condominium developers and staying evictions by individual unit purchasers for up to one year after purchase. They argued that the City could regulate the use of real property, i.e. zoning, but not the transfer of rights incident to ownership, i.e. the right to possession. The court disagreed, analogizing the ordinance to rent control, and holding that a housing crisis justified the exercise of the police power. The court then held that the ordinance was not a taking without just compensation, observing that the ordinance did not create rental housing from owner-occupied housing or control units not previously covered by rent control, and stressing that the property held by plaintiffs was not rendered worthless by the act. Plaintiffs were entitled to a "fair net

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7/ When the Borough of New Milford enacted an ordinance restricting evictions for condominium conversion pursuant to this statute, the ordinance was challenged as conflicting with preemptive State law. In that case, the court found that the ordinance duplicated the statute, and that to pursue their complaint, plaintiffs must challenge the validity of the state statute directly. Brunetti v. Borough of New Milford, 350 A.2d (N.J. 1975).

operating income" under the rent control statute, and the condominium purchaser was permitted to take possession of the unit eventually. 8/

The court also rejected a challenge on equal protection grounds, stating that Brookline was entitled to provide special requirements for evictions in connection with condominium conversion, i.e. "draw up regulations based on the form of ownership, so long as such a classification is rationally related to the purposes of rent and eviction control." Here, the City could conclude that conversion posed "a singular threat to the purpose of rent control." The court distinguished cases holding that zoning ordinances cannot discriminate against the condominium form of ownership, finding that such cases were "inapposite."

> . . . None involved condominium conversion in the context of rent and eviction control. Nor did those cases rest their decisions on the constitutional guaranty of equal protection of the laws. Instead, each held that under the applicable zoning enabling acts, regulation based on the form of ownership was unauthorized. . . .

8/ The court also reviewed the ordinance in connection with the state requirement that interest of both owners and tenants be considered under the rent control statute. It found that the ordinance did in fact accommodate the interests of owners, developers and purchasers in that landlords were not deprived of their reasonable profits and condominium conversion was not precluded altogether, in that "conversion is permissible and may proceed unimpeded when the tenant chooses to buy the unit or vacates voluntarily." The court distinguished an earlier case which struck down a Brookline ordinance requiring that a majority of tenants purchase their units before evictions would be allowed. Zussman v. Rent Control Bd. of Brookline, 326 N.E. 2d 876 (Mass. 1975) The court noted that Zussman was decided under a Massachusetts law encouraging homeownership, and that "the regulations foundered on that single premise." Here the ordinance was enacted under state law intended to enable Brookline"to confront, singularly, its housing difficulties."

In addition to Grace, supra, we have been able to identify only two cases which touch upon the constitutionality of statutes regulating the conversion of rental housing, and both deal with emergency moratoriums. In Apartment & Office Bldg. Assoc. v. Montomgery Co., Md., Equity No. 68,354, Circuit Ct. for Montgomery Co., Md., Dec. 6, 1979, the court held that plaintiff landlords had made no showing that the regulation was arbitrary, oppressive or unreasonable. 9/ In Chicago Real Estate Bd. v. City of Chicago, No. 79 C 1284, U.S.D.C. N.D. Ill., April 20, 1979, the court enjoined the enforcement of an emergency moratorium, finding that the legislation was not based on a definitive study which delineated the true dimensions of the problem, and that the City had made no showing of any circumstances warranting total deprivation of the right to buy and sell real estate. While noting that the City had the authority to regulate the rights to buy, convert and sell property, the court held that "the City cannot totally suspend those rights, even for only 40 days."

In view of the lack of relevant precedent, the following analysis constitutes a theoretical discussion of the constitutionality of the majority tenant agreement requirement for condominium and cooperative conversion included in Bill 3-222.

Due Process

The Council's authority to regulate real property to promote the public welfare is beyond question. Block v. Hirsh, 256 U.S. 135, 155-156 (1921). The courts have upheld regulation of the use of real property, Euclid v. Ambler, 272 U.S. 365 (1926) (a challenge to a zoning ordinance); the economic return on real property, Apartment & Office Bldg. Assoc. v. Washington, 381 A.2d 588 (D.C. Ct. App. 1977)

9/ The primary challenge was to a provision granting tenant organizations a right of first refusal to purchase rental property to be sold for conversion purposes.

(a challenge to rent control); the possession of real property, Jack Spicer Real Estate, Inc. v. Gassaway, 353 A.2d 288 (Ct. App. D.C. 1976), Grace, supra (challenges to eviction controls under rent control statutes); the right to demolish or reconstruct real property, Penn Central Transportation Co. v. City of New York, 98 S. Ct. 2646 (1978) (a challenge to the New York historic landmark legislation); and the right to transfer title to real property, Apartment & Office Bldg. Assoc. v. Montgomery County, supra (a challenge to a blanket emergency moratorium on condominium conversion).

The guaranty of due process under the U.S. Constitution "demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained." Nebbia v. New York, 291 U.S. 520, 525 (1934). The court will not look beyond this test to the "wisdom" of the rule or the necessity of its enactment, and every possible presumption is in favor of its validity. Id. at 537-538.

Proposed Bill 3-222 does not yet contain a statement of legislative findings or objectives. However, as stated above, it would supercede current legislation restricting the conversion of rental housing to condominiums or cooperatives. Consequently, for the purposes of this analysis, we will assume that the objectives are similar, i.e. that the objective of the majority tenant consent requirement is to prevent further depletion of the District's housing supply. 10/ Clearly, preservation of

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10/ The original emergency moratorium on condominium conversions was enacted to prevent "further depletion of the shrinking rental housing supply." (emphasis added) This moratorium was extended in the fall of 1974 because of the "grave housing crisis in the District of Columbia, evidenced partially by increasing rents and decreasing supply of rental units available to persons of low-moderate and middle-income, and in particular to elderly persons." (emphasis added) The current restrictions on conversion of "low-moderate-rent housing"were enacted to balance "the interests of individuals in ownership and the District of Columbia in preserving low to moderate priced rental units as long as there is an

Footnote 10/ Continued on Page 9.

the District's supply of rental housing is a legitimate governmental objective, and the proposed restriction on conversion of rental housing would appear to bear a real and substantial relation to this end. 11/

The more difficult question is the issue of "reasonableness." If regulation goes too far, it will be recognized as a taking by the government without just compensation. Pennsylvania Coal v. Mahon, 260 U.S. 393, 415 (1922). The "reasonableness" of each regulation depends upon the particular facts of each individual case. Penn Central Trans. Co., supra at 2659. The courts consider such factors as the extent of diminution in value, Goldblatt v. Town of Hempstead, 369, U.S. 590, 594 (1962); the extent of interference with a present use or the primary expectation concerning the use of the property, Penn Central Trans. Co., supra at 2666; the ability to realize a fair and reasonable return on the property, Palmer v. Bd. of Zoning Adjustment, 287 A.2d 535, 542 (D.C. Ct. App. 1972); and the term of the regulation in connection with the menace which it is intended to affect, Apartment & Office Bldg. Assoc. v. Washington, supra at 592.

10/ Continued.

abnormally low vacancy rate in such housing." (emphasis added) Rep. on Bill 1-179, "Condominium Act of 1976," Committee on Housing & Urban Development Council of the District of Columbia, June 16, 1976, amended June 18, 1976. The Council imposed an emergency moratorium on "high-rent" housing in May of 1979 because of the exceptionally high rate of cooperative and condominium conversions in 1978 and 1979, resulting in the depletion of the District's rental housing supply. Res. No. 3-126, May 22, 1979.

11/ The Council could conclude that tenants would be unlikely to agree to conversion unless a substantial number decided to purchase their units, thus relieving the potential strain on the rental housing supply caused by displacement of large numbers of persons. Alternatively, the Council could conclude that tenants would be more likely to agree to conversion when an adequate supply of rental housing is available to tenants who are unable or choose not to purchase.

Given these standards, the requirement of majority tenant consent contained in Bill 3-222 would not appear to be so unreasonable as to be confiscatory, i.e. a taking without just compensation. Even assuming an owner could not obtain tenant agreement, the requirement would not deprive the owner of all beneficial use of his property. He could continue to operate the property as rental housing and would be assured of a reasonable rate of return by the terms of the Rental Housing Act of 1977. Id. at 591. While the restriction might operate to deprive the owner of a greater profit upon transfer of the property than would otherwise be possible, it is well established that this factor alone does not establish a taking. Block v. Hirsh, supra at 157; U.S. v. Central Eureka Mining Co., 357 U.S. 155, 168 (1958); Bernstein v. D.C. Bd. of Zoning Adj., 376 A.2d 816, 820 (D.C. Ct. App. 1977) Taylor v. D.C. Bd. of Zoning Adj., 308 A.2d 230, 236 (D.C. Ct. App. 1973); Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 542 (D.C. Ct. App. 1972).

We note, however, that the current legislation requires majority tenant agreement for conversion of "low-moderate-rent" housing to condonomiums only during times of an "abnormally low vacancy rate," while Bill 3-222 does not include a similar limitation. Assuming the finding of a rental housing shortage as a prerequisite to imposition of restrictions to preserve the supply of rental housing, Bill 3-222 could be challenged as "unreasonable" because it fails to include a similar limitation.

A related argument was made in Apartment & Office Bldg. Assoc. v. Washington, supra where plaintiff landlords argued that the existence of an emergency was a constitutional requisite to imposition of rent controls under the police power. The Court of Appeals rejected this argument, finding that the Council had projected a long range housing crisis, and holding that the rent control Act was a "legislative response to a shortage of housing for District residents which the legislative body has found to exist." However, the Court also held that the rent control legislation was not so "'plainly and palpably unreasonable' to the landlord as to be confiscatory" because, inter alia, the Act was temporary, since by its own terms it was applicable for a two-year period and

designed to meet an emergency found by the Council to exist due to the shortage of housing. Id. at 592. This holding would indicate that Bill 3-222 could be more certain of being upheld if it also contained a limitation on the imposition of restrictions on conversion, such as a tie-in to the vacancy rate, or an expiration date.

Equal Protection

The restrictions imposed on the conversion of rental housing to condominium or cooperative by Bill 3-222 apply to a class consisting of all existing rental housing in the District of Columbia. Excluded from this class are hotels and other structures used "primarily for transient occupancy." §101(g), D.C. Bill 3-222. Included in the class are both "high-rent" and "low-moderate-rent" housing. Should these distinctions be challenged on equal protection grounds, the court would apply the standard of review traditionally used for economic regulation, "the so-called 'rational basis' test, that is whether 'the classification challenged be rationally related to a legitimate state interest!" Montgomery Co. v. Fields Road Corp., 386 A.2d 344, 346 (1978)

In applying this test, the courts have traditionally recognized that "the drawing of lines that create distinctions is peculiarly a legislative task and an unavoidable one. Perfection in making the necessary classifications is neither possible nor necessary." Massachusetts Bd. of Retirement v. Murgia, 427 U.S. 307, 315 (1976). The Court accords states wide latitude in economic regulation, holding that legislatures may implement a program "step by step", "adopting regulations that only partially ameliorate a perceived evil and deferring complete elimination of the evil to future regulations." City of New Orleans v. Dukes, 427 U.S. 297, 303 (1976). One who challenges a classification on equal protection grounds "must carry the burden of showing that it does not rest on any reasonable basis, but is essentially arbitrary." Fields Road Corp., supra at 347, citing Lindsley v. Natural Carbonic Gas, 220 U.S. 61, 78-79 (1911).

Given this standard of review, it is difficult to see how the restrictions in Bill 3-222 could be successfully challenged on equal protection grounds. The distinction between apartments and hotels is presumably based upon the assumption that conversion of hotels to condominiums and cooperatives is not a significant problem which contributes substantially to the depletion of the District's rental housing supply. 12/ (See Montgomery Co. v. Fields Road Corp., supra at 347 where the court upheld a regulation applicable to buildings with 25 or more units only, finding that the regulation covered a "'very high percentage of the units in the country.'" The inclusion of all rental housing, including "high-rent" and "low-moderate-rent" housing, is presumably based upon a finding that conversion is depleting the District's rental housing supply at all income levels. (See note 10 supra, and Massachusetts Bd. of Retirement, supra, at 310-311, 316, where the Court upheld a statute requiring retirement at age 50, despite evidence of excellent health, on the basis that a general relationship exists between advancing age and decreasing physical ability to respond to the demands of police work.)

12/ We note, however, that problems have arisen in connection with the exemption of "hotels" from rent control under the Rental Housing Act of 1977. In view of these problems, the Council may want to consider revising its definition of "housing accommodation" to ensure that buildings which in fact operate as apartments do not qualify as hotels for the purposes of Bill 3-222.

STATEMENT OF THE CHAIRMAN

CONGRESS' VETO OF COUNCIL ACTS

The CHAIRMAN. Under the District of Columbia Home Rule Act adopted by Congress in 1973, Congress has used its veto powers very sparingly. Of the hundreds of local laws adopted by the District during 5½ years of home rule only one has been vetoed by Congress. That one was the Location of Chanceries Act vetoed last December. In considering the half-dozen veto resolutions which have been introduced in the House in the past 5½ years, this committee has considered three main questions and I think this is extremely relevant to the matter before us this morning. First, has the City Council clearly exceeded the powers granted to it under the Home Rule Act? This is the same question sometimes raised in court challenges to council action. Our committee has tried not to replace the courts in asking this question, but has been concerned with whether the legislative powers of Congress which have been delegated to the local council have been properly carried out.

The second question this committee usually asks is: Has the city clearly violated the constitutional rights of the people? This again is a question which courts are competent to answer, so Congress is cautious not to interfere in the judicial process.

The third question is: Has the Council interfered in a Federal question or obstructed the Federal interest? This was the main issue in the chancery case where Congress did veto a Council act. This question can be raised even when the Council conscientiously carries out its responsibilities under the charter but fails to balance lo[illegible]d Federal interests judiciously.

As we listen to testimony today we will be interested in the views of the witnesses on these three questions as well as other matters they may wish to discuss.

We must ask ourselves whether the Council Act in question is not the very kind of local issue which Congress sought to divest itself of in adopting the Home Rule Act. We ought to be sure that we are not second guessing the Council on local matters in a way that will undermine the Home Rule Act and will again make Congress the umpire for every local government question.

And I repeat for emphasis undermine the Home Rule Act and will again make Congress the umpire for every local government question. The Chair will now yield to the ranking member, the gentleman from Connecticut.

STATEMENT OF REPRESENTATIVE McKINNEY

Mr. McKINNEY. Thank you, Mr. Chairman. I have a somewhat lengthy statement that I would ask be included in the record in its entirety.

[The statement referred to follows:]

PREPARED STATEMENT OF HON. STEWART B. McKINNEY

I must say that I usually look forward to the convening of this committee in this hearing room since it is usually the occasion for us to report out another piece of legislation which will serve as an additional building block toward full Home Rule for the District of Columbia. Unfortunately, today we meet for the purpose of considering a resolution of disapproval which, if passed, will severely fracture the very foundations of home rule which we have so artfully crafted to date. I want to say at the very beginning that I am not pleased to be here. I am adamantly opposed to the proposal before us, and it is my sincere hope that if anything positive is to come of this meeting, perhaps it will serve to once again redefine the distinctions between federal and local interests.

Mr. Chairman, I do not think that you would want the Congress of the United States to have final say over local legislation passed by the Oakland City Council. I know for a fact that I personally wouldn't want the Congress to have veto power over the legislation passed by the Bridgeport City Council. I would expect that the majority of our colleagues share our sentiments. Since there is absolutely no federal interest involved in the D.C. City Council's Rental Housing Conversion and Sale Act of 1980, I think it is only fair and proper to accord the District of Columbia the same privileges we would extend to our own cities and towns.

While I am familiar with the problem of condominium conversion nationwide, I do not profess to be an expert on all of the intricacies of condominium conversion in the District of Columbia. I must say that I have heard from quite a few individuals in reference to D.C. Act 3-204, and it is my understanding that the real estate interests in this community have some real problems with this legislation. In fact, there have been some allegations made that certain parts of this bill are unconstitutional. If that be the case, then it is for the D.C. City Council or the local courts to decide. That is not and should not be the job of the United States Congress to intercede in something as local in nature as the supply of the housing stock in the District of Columbia.

Mr. Chairman, I could go on, but I think that you and all the other members of this committee are familiar with my pro-D.C. arguments. Suffice it to say that while I do not consider this session a complete waste of time, I do think that the officials from both the city and the Congress who have gathered here in this room this morning certainly could have put this time to better use. I cannot help but ask, when are we going to learn that the days when Congress played City Council are over? When are we going to learn that Congress should not stick its "finger" into the local pie any more? When are we finally going to give the residents of the District of Columbia final say over local matters of a non-federal nature?

I cannot speak for all of my colleagues, but I certainly hope that the members of this committee can start right now by defeating this resolution and letting our actions stand as a precedent for the future.

Thank you.

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The CHAIRMAN. Without objection it is.

IMPACT OF HOUSE CONCURRENT RESOLUTION 420

Mr. MCKINNEY. Obviously, we meet today for the purpose of considering a resolution of disapproval which, if passed, I think would severely fracture the very foundations of home rule which we have artfully I think, though incorrectly in some ways, brought about. I would say, Mr. Chairman, that this type of resolution of disapproval, such as the one we had over the gas station ownership issue, is all the more reason why I think that my idea of establishing a Federal interest before we entertain a resolution of disapproval would be a valuable one.

I do not think you would want the Congress of the United States to have the final say over legislation passed by the Oakland City Council. As I said yesterday in the debate on the floor of the House, I think congressional interference in the affairs of the District of Columbia is an obscenity. I would hope the majority of my colleagues would have the same feeling.

I am not, Mr. Chairman, going to argue the merits or lack of merits of the city's condominium conversion bill. It is my feeling, and I have also heard it from many different interests, that there are parts of this legislation that are probably unconstitutional. However, that is the job of the City Council to determine what legislation they want to write and it is the job of the courts to determine its validity or lack of validity within our legal system. I could go on and on, Mr. Chairman, but once again I have to state that there is no Federal interest here for the citizens of the Nation. It is the citizens of the District of Columbia that will elect or unelect the City Council and the Mayor of this city. It has taken us a long time to give the citizens the right to elect them. I do not think we have any right interfering in the processes, and whether I were for or against the bill has nothing to do with the issue. It seems to me that the issue is pure and clearly one of Federal interference in what is essentially a local problem. I will therefore oppose the issue with deep regret because I am very fond of my friend who has put it forward. But that has been a policy of mine and it is going to continue to be a policy of mine.

The CHAIRMAN. I thank my distinguished colleague. Does the gentlewoman seek to make an opening statement? If so, the Chair will yield.

STATENT OF REPRESENTATIVE FENWICK

Mrs. FENWICK. Thank you. Yes, I would like to state at the outset that I am absolutely against condominium control and rent control and always have been in my home State and here. I think it is a very unwise move. I think every city that tries to do it pays a terrible price for it. We have seen it fail not just in American cities but in every city abroad that has tried to do the same thing. It is a very unwise, shortsighted, foolish, but natural response to a situation which many people find very difficult.

All that being said, I do not see here an overriding interest of the Nation in this question, and I think it is improper for Congress to take action of any kind to stop the Council from doing what it feels is in the best interests of its people.

Thank you.

The CHAIRMAN. I thank the gentlewoman. Does the gentleman from the District of Columbia have an opening statement?

Mr. FAUNTROY. I will yield at this time, Mr. Chairman.

The CHAIRMAN. I thank my colleague. The Chair will now go to the witnesses.

The Chair would recognize our first witness, my distinguished colleague, the gentleman from Texas, Mr. Charles Wilson. I notice you are accompanied by a colleague. If you will identify the gentleman for the record you may proceed in any fashion you choose.

STATEMENT OF HON. CHARLES WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, ACCOMPANIED BY ROBERT NATHAN, ECONOMIST

Mr. WILSON. All right. My colleague is a nationally known economist, Mr. Robert Nathan.

FEDERAL INTEREST

Mr. Chairman and members of the committee, first of all I want to really thank you for this hearing. I have no illusions about the prospects of this resolution being favorably acted on by this committee. But I did feel that the substance of the legislation in question was important enough that it should have a public airing. Now, first of all, to address the question of where the Federal Government fits into this particular situation, the Federal Government fits into this particular situation because if the tax base of the District of Columbia does not grow the District of Columbia cannot continue to provide the services it hopes to provide without a massive amount of Federal payment. It is my judgment that amount of Federal payment will not be forthcoming from the Congress as long as a majority of the Congress feels that the public policies of the District of Columbia do not stimulate the growth of the District's tax base, thereby requiring less effort on the part of the District and more effort on the part of the Federal Treasury.

Now, I have, like the gentlelady from New Jersey, long felt that rent control and condominium control per se were very damaging to the economic health of a city. Usually when I have said that, I would say to the gentlelady from New Jersey and to Mr. McKinney, I have been accused of a conflict of interest because I have been accused of being a landlord here in the District. I would like for the record to show that my pending divorce has relieved me of that burden and I presently own one-fourth of an empty rental house and I will be happy to entertain offers on that at the conclusion of the hearing.

APPROPRIATIONS FOR THE DISTRICT

The District has great financial problems. Everybody knows that. The bill that was passed yesterday by the House, the appropriation bill, is not a drop in the bucket as the Delegate from the District of Columbia probably knows. In my judgment by the end of this year or first of next year the District is going to be in a financial crisis, the checks are going to be bouncing and I have no doubt but that Congress is going to be asked for an enormous amount of money. I

would also remind the Delegate from the District of Columbia that the bill passed yesterday was equal with a 7 percent increase minus 2 percent with a 5 percent increase of the appropriations that the District has received in the past plus the supplemental appropriation. So they got the full amount yesterday, plus an increase from the past years, and I have no doubt and I am sure the Delegate has no doubt that the District is going to be coming for a great deal more money next year in an emergency supplemental. My judgment is it is going to be very difficult to pass it in the House as long as there is a feeling that the District is deliberately destroying its own tax base. I would like to further qualify myself as a friend of the District. First of all, I have been one, along with the chairman of this committee, and I believe the ranking minority member, who has publicly and vigorously supported the idea of the District having the authority to levy a commuter tax. Second, I have supported the chairman and the chairman of my Subcommittee on Appropriations for the District of Columbia in vigorously opposing the abortion ban that we successfully thwarted yesterday by 10 votes. Third, I voted with the Delegate from the District to establish the Home Rule Charter that we did in 1973, or was it 1974?

Mr. FAUNTROY. 1973, October 10.

Mr. WILSON. I believe I was 1 of the 10 sponsors he listed that had made it possible to pass that.

FEDERAL PAYMENT

Just as a matter of background I have two counties in my district that have over 50 percent Federal ownership in national forests. Neither one of those receives a penny of Federal payment as a reward for that. So we need to keep that particular thinking in perspective.

DISTRICT OF COLUMBIA GOVERNMENT EMPLOYEES

Second, as to the District of Columbia government, we all know the amount of employees it has. We have to assume it is the public policy of the District to provide more services than perhaps other entities provide. We have to either assume that or assume that the employees are not effectively employed. I would prefer to assume they are providing more service. If it expects to provide more service it has to have a strong, vigorous, growing tax base. It is my contention we are destroying the tax base through rent control, condo conversion, hotel prohibitions in the neighborhoods, which not only—throughout the world the most elegant hotels are rather smaller hotels generally found in residential neighborhoods, every place except Washington D.C. We are not only depriving ourselves of taxes but what Washington needs more than anything else: That is meaningful, economically viable jobs. So every consideration from the city's standpoint in my judgment is being ill-served by these ill-advised laws, particularly in destroying the employment opportunites that would come through refurbishment of old housing stock, employment in hotels, et cetera.

PROBLEMS OF THE POOR

I would like further to make clear to you and to make clear to the audience and particularly clear to the representatives of the Washington Post that I am not in any way insensitive to the needs of the poor. By the poor I mean people who cannot afford adequate housing. When I was chairman of the District of Columbia Subcommittee, and it is well known and has appeared in one of the newspapers in town, in order to try to address the severe problems that the really poor people in the District have, there is only one way to do it, that is to address it through a meaningful rent supplement program. When I was chairman of the Appropriations Subcommittee I met with many of the District officials, including the subsequent, the head of the Housing Department who is going to testify today, who is a very able man because he was trained in Houston, but at that time we talked and I will speak only for myself, but what is needed is a meaningful rent supplemental program that would say that a poor family is going to spend not more than 25 percent of their income for shelter and the rest of the money to be made up through a rent supplement program to be funded largely by—and my offer was by the Federal Government. If you do that, Mr. Chairman, then new apartments are built, then new shelter is built for the poor, but you are not subsidizing the nonpoor that live in the high rises on Connecticut Avenue. And I think that speaks for itself.

COUNCIL ACT 3-204

I would like to point out too that in this particular legislation, Mr. McKinney, in this particular legislation, people are protected that make anywhere below $30,000 a year. Now 96 percent of the people who live in my district make below $30,000 a year and they do not expect any sort of Government protection or subsidy as a result of that income. What this bill does is, again, it subsidizes the middle and upper middle class at the expense of the poor and at the expense of services that the District wants to deliver to its people and at the expense of the financial viability of the District of Columbia and this is going to present in the future a great problem.

But Mr. Chairman, you and my subcommittee and my chairman, Mr. Dixon, and all of us who are interested in the District are going to have great problems at the end of this year and at the first of next year maintaining a financial viability for the District. We are going to have these problems in particular if a majority of the members of the House of Representatives—and we all saw what the vote was yesterday—if a majority of the members of the House of Representatives feel that the District is mismanaging its business and that it is not doing all it can to increase its own tax base and in particular subsidizing people that do not need to be subsidized at the expense of the very poor. That is the extent of my statement.

I would like not to introduce as an expert witness, Mr. Robert Nathan, nationally known economist. By way of qualification he has worked with Mrs. Roscoe Dellums with the Legal Defense Fund, he has been National Chairman of the Americans for Demo-

cratic Action for 2 years, Chairman of the National Consumer Federation and occupied many high posts during the New Deal days of Franklin Roosevelt and can hardly be classified as a reactionary. Mr. Nathan and I will speak generally about the economics of rent control and the condo conversion prohibitions.

The CHAIRMAN. Mr. Nathan.

Mr. NATHAN. Thank you very much, Mr. Chairman and members of the committee. I can be quite brief on this subject because I feel very strongly about the tremendous need for economic development and most important for job opportunities and the vigorus growth and expansion of a community if there are going to be resources for the well being of the residents of that community. I might say I happen to have served for some 2 or 3 years on the Mayor's overall Economic Development Committee, and I have felt for a long time, being in Washington, and this general area for 45, 47 years now since the early days of the New Deal, that it is most unfortunate that the District does not have the progress, the growth, the dynamism that would provide adequate job opportunities and adequate income levels where we could have, so to speak, a demonstration community in the United States because of what this area means in terms of the national well being of the country and of the world.

FEDERAL INTEREST

Let me say that sometimes it is inevitable that the District of Columbia's economic well being will be interrelated with Federal problems and Federal problems will strongly influence the District of Columbia's economy, inevitable because of the nature and character of the economic functions of the District. There is so much here in relation to Government, so much input by Government into the community and so much community input to the Government and on the international front that one cannot really separate those two totally. Then, as Congressman Wilson mentioned you do have the very critical problem of Federal reserves and I have always felt that the District has had problems in demonstrating what it should get from the Federal Government and this is, I think, a decision because I do not think the Congress has always been responsive to the nature of the burden that is imposed upon the residents of the District of Columbia or its environs that derive from the services that the Federal Government demands. Yet—that has to be provided by the District and it is awful tough I know, in economic terms, to set up a formula which is readily acceptable by everyone, the ones who want to get the benefits obviously seek to have a so-called generous formula and those who provide the resources seek to squeeze those resources because of other alternative uses.

ECONOMIC RESTRAINTS

Now basically what happens on the legal side, as the Chairman pointed out, is something I am not going to comment on, but I do want to comment on the economic implications of rent control, of conversion and of hotel limitations very briefly because I do believe in economic restraints usually give perverse results. I just might say that I happen to think fighting inflation with recessions gives

perverse results. You get high interest rates, less investment, less building, and you get high costs of capital and you get less investment and therefore with less investment you get low productivity, it is a sort of a downward spiral rather than upward. I think what the District does need and I agree with the Congressman is to help those who have not the means to acquire decent housing and to have other channels for minimum needs and accident levels. But you think it is terribly important to recognize in our society that without incentives you do not get investment, without incentives you do not get construction, without incentives you do not get the supplies of resources that are needed and you do not get the jobs.

IMPACT OF RENT CONTROL

All one has to do is go to States like New York, see what happened to rent control, what rent control did in terms of resulting of tremendous abandonment of facilities that made the housing situation worse, not better. It would be much better to have the people have the income, the jobs and then the supplement so they could pay the rent which in turn would stimulate the construction of housing and housing facilities rather than try to do it on the other side of the coin which has the perverse results. I think the same thing is true of hotels. I believe in the District the opportunities for jobs in the service area are unlimited. I just happened to come back the night before last from spending a few days in Edinborough, before that in Amsterdam, and prior to that in Sweden. The economies there benefited tremendously from exploiting those attractive resources they have, and the District has a tremendous attraction here to the people of the United States and the world, and I believe that hotels ought not to be one of the last items on the priority pole. I do not mean that it should be given priority over everything else but it is a tremendously important source of revenue to the city and of jobs. Finally I believe the condo situation has the same issue that the rent control has, namely it becomes a limiting factor in terms of investment and expansion. We ought to look toward expansion of opportunities, not contraction. With these limiting elements I do believe you are going to have less jobs rather than more jobs. If you are going to have less jobs, people will be moving out of the District not into the District. We would not be losing population, we might even increase population, have less revenues for offices, for education, transportation, health, for the whole range of essentials that make for quality of life.

I believe what we need to do is to think positively, try to develop stimulations rather than restraints. Basically I am sorry to say, as one who has tremendous interest and worked in this District for most of my lifetime that I think this legislation which has been adopted locally, I think is going to have a negative impact rather than a positive one from an economic point of view.

The CHAIRMAN. I thank the gentleman. Does that conclude your remarks?

Mr. WILSON. Yes, sir.

The CHAIRMAN. Before we go to the questions the chair would like to simply make a few observations. First of all I appreciate the fact that your testimony goes to what you perceive to be the merits

or lack of merits of this issue. I personally believe that that is not the matter before us and I think that this matter raises some very significant questions that I think my colleagues on this committee must address.

CRITERIA FOR RESOLUTIONS OF DISAPPROVAL

That is, the criteria that should be used in determining whether a resolution of disapproval is appropriate to come before this committee. I think we need to grapple with the criteria. In the next several weeks I think we ought to come to grips with that, make some determination, so we do not have all these resolutions coming before us if they do not meet certain criteria. This committee has been holding a number of hearings, in fact 8 days of hearings, looking at the urban centers including Washington, D.C., with an effort to look at what we perceive to be the urban crisis and the nature of that crisis. In the course of the hearings one thing that jumped out from the testimony, at myself and members of this committee, has been that the problem of affordable housing is a significant issue and rapidly becoming one of the Nation's greatest problems confronting every single major city in the United States. Now without going to the merits of rent control versus no rent control, it would seem to me that was being said by local communities in enacting rent control measures, either from the city council or by referendum, is in that absent national policy guaranteeing affordable housing for millions of American human beings, people at the local level have to use whatever instruments are available to them. Any intelligent human being analyzing and evaluating Federal laws will come to a startling realization, that our Federal laws, A, do not support people who build rental housing; B, do not support people who own rental housing; C, do not support people who manage rental housing and finally and most importantly D, they do not support people who live in rental housing. If we want to do something significant, it would seem to me that what we need to do as colleagues is address ourselves to the need for the development of national policy vis-a-vis the question of affordable housing for the millions of human beings in this country for whom that is becoming a significant matter.

Rather than coming at it from the standpoint of a resolution of disapproval which again puts the District in a relatively unique situation absent any other considerations of other urban centers around the country.

Mr. WILSON. Would the chairman yield?

The CHAIRMAN. I am going to give the gentlemen plenty of time. The District does not exist in a vacuum. That is the reason why the Chair and members of this committee have begun to call hearings on the urban centers. We are going to continue those hearings because we are trying to dramatize that Washington, D.C., while it may be the Capital of the United States as it addresses the human misery of its people it is not unique and that what affects Washington, D.C., is affecting every major city in the United States at one level or another.

If we are going to address the problems of Washington, D.C., from the Federal perspective then sometimes we have to do it vis-a-vis national policy that affects all urban centers, rather than for us

to focus significantly as Members of Congress on the District; particularly in those areas where the Mayor and the City Council and the residents of the District given home rule are much more appropriate people to deal with that question.

I do not want to discuss this morning the merits of this law, versus the lack of merits. Because I do not think that is significantly before us. I think we struggled valiantly in the Home Rule Act to divest ourselves of these matters so we could get on with the business of national policy, international policy, foreign policy, energy policy and all the significant issues that American people are crying for us to deal with. This now forces us back, spending time, dealing with issues that I think are more appropriately addressed by the local residents and their representatives.

If the gentleman wants to respond to my statement before I ask him some questions, we would be more than happy to receive your statement.

ADEQUATE HOUSING PROBLEM

Mr. WILSON. I understand what the gentleman says. I think I said that I did not expect this resolution to be approved. What I wanted to do was to air the issue. I would like to say, Mr. Chairman, when we say we are interested in those who cannot afford adequate housing, I think you and I are talking about exactly the same people, we are talking about the people that are on a subsistence income. So the question is how do you best deal with that? I would simply suggest over and over that the way Montgomery County deals with it is a much more economically viable plan than the way the District is attempting to deal with it through a very meaningful and compassionate rent subsidy program that goes only to the poor but that still allows the poor to pay their rent and allows the landlord to pay the taxes. That is the point. And also I would say to the gentleman one more time that maybe it is not—I voted for the home rule bill—so maybe this is not a proper thing to do to introduce a resolution of disapproval, but we need to start thinking about what is going to happen when the District goes broke at the end of the year. That is what we need to think about and how we are going to get our colleagues to respond.

OBJECTION TO COUNCIL ACT 3-204

The CHAIRMAN. I thank my colleague. I would like to go to questions. First to simplify and summarize. The forum for this discussion is more appropriately in the hearings dealing with the problems of the District and other urban centers as we grapple intellectually and politically to find a policy direction that gives hope to people who live in the urban centers of the United States including the District. For the record, I have four questions. First—and either of you may answer. Is your objection to Council Act 3-204 based on either the constitutionality of the Council Act or whether the Council has exceeded its powers under the Home Rule Act of 1973?

Mr. WILSON. My basic objection is that the results of the act that is in question is going to be an added financial crisis that is going to require a larger Federal payment which I doubt will be forth-

coming from the Congress and will throw the District into a financial abyss. My objection is not constitutional, it is practical.

The CHAIRMAN. The second question, do you feel that the city should have no legislation to protect tenants in condo conversions, or do you just feel that Council Act 3-204 is not the right way to protect tenants?

Mr. WILSON. I feel the latter, Mr. Chairman.

The CHAIRMAN. Third question, do you think Congress should try to adopt a better law to protect tenants in the District on the condo conversion question? In other words do you think Congress should legislate for the District on this issue?

Mr. WILSON. No.

The CHAIRMAN. Final question. The House Committee on Banking, Finance and Urban Affairs has received legislative proposals from a number of members of the national standards for protecting tenants in condo conversions. Are you familiar with these bills and do you favor national legislation to protect tenants?

Mr. WILSON. The answer to both questions is "No."

FEDERAL PAYMENT

The CHAIRMAN. I would just like to make one final observation with respect to your statement regarding the Federal payment. My colleague mentioned the Federal payment as the basis for invoking a Federal interest in this matter since the matter involves the District tax base and therefore revenues. This assumes, Mr. Wilson, that the Federal payment is a budget supplement for the District and we know that it is not.

Mr. WILSON. You know that it is not?

The CHAIRMAN. The Federal payment is payment to the District for services rendered and revenues denied by virtue of the Federal presence and/or policy. It does not necessarily carry with it a need for the Congress to determine local revenue policy.

Finally, it should also be kept in mind that the Federal payment is less than 20 percent of the local budget. The gentleman from Connecticut.

Mr. MCKINNEY. Thank you, Mr. Chairman. With your leave and with the witnesses leave I think I probably am going to end up making a statement here and I apologize. I have somehow or other ended up a rather urbanized Congressman, ranking member of this committee, ranking member of Economic Stabilization Subcommittee which handled New York's problems on the Cities Subcommittee; and on the Housing Subcommittee for the last 8 years. Obviously, I have not been succeeding, since on last night's television network shows I saw that the average cost of a house in California is over $100,000 and the average cost of a house nationally is over $74,900. I do agree with the chairman, we have a national problem. I totally agree with the chairman that our tax policies do not benefit the renter as they do the mortgage holder, that they do not give the type of depreciation that will make a builder build apartments.

OPPOSES COUNCIL ACT 3-204

But I have to say—and this is where I get a little rough—in my estimation, even though I will not interfere in the city's affairs,

this is a rotten bill. In my estimation if this resolution of disapproval were taken to the floor of the House it would pass. We on the Housing Subcommittee decided we had to reintroduce a higher income level.

CONGRESS AND RENT CONTROL

If you will remember just a few weeks ago when the bill was on the floor, the House passed an amendment prohibiting rent control for any city that wanted to use this new program or participate in it. Certainly, if there were a city that should participate, it is Washington D.C., and they will be prohibited. In fact, it is one of the reasons that Lud Ashley and myself sat down and worked so hard on that particular piece of legislation which is very controversial. In other words, it goes into the issue of the lower-middle class that has dropped through the cracks in our housing programs. Washington will not be able to participate in that program.

I would also suggest to you, Mr. Chairman, that we have had study after study after study—and if I did not realize the cost of printing in this place I would have them all put into the record—that have been delivered to the Housing Subcommittee of Banking, Housing, and Urban Affairs and every single one of those studies has proven as Mr. Nathan has stated, the absolute unmitigated economic disaster of rent control. It is my information and I do not know how correct it is that there has not been an apartment unit built in the city of Washington since rent control except with Federal funds. We all know where they are being built, Crystal City, Arlington, Route 395, et cetera. In the meantime, the only activity that has taken place in this city is upper class renovation and that is about it. The average cost of a new house being built in Washington of the type being built are selling for $100 a square foot and that is pretty steep. That is the only activity taking place in this city unless Uncle Sam is paying for it. Uncle Sam is not going to be able to pay for it in the future because the city will be outlawed from participating by an act of Congress.

So, I would just simply say I will continue to oppose interfering in the District's affairs but Mr. Wilson's argument is factually proven and so is the chairman's, that we may need a Federal policy to build rental housing. You are both literally on the same side but coming from different places. I am going to say to my friends on the City Council that I agree with Mr. Wilson's pragmatic political analysis of what happens on the floor of the House of Representatives. I think the sort of unwarranted fast passing of the Miller amendment yesterday which cut the city's budget with a broad stroke of 2 percent of the Federal payment, should give pause to anyone who contemplates the future of this city.

HOUSE CONCURRENT RESOLUTION 420

As I said I think this resolution would pass on the floor despite the fact that the chairman and I will fight it tooth and nail. I think when we have to pick up the Mayor and the City Council's empty buckets next year for the supplemental, and walk ourselves over to the House of Representatives and get torn to shreds which we most certainly will, that we are going to find ourselves in an unfortunately losing ball game. It frightens me. I would remind us the

only reason home rule is at issue in this Congress is because the city lost home rule because it went bankrupt. It used to have it. So, I would just simply say that I hope someone downtown—I am not going to interfere—but I hope someone downtown will monitor what is happening. And I hope they will watch it carefully because the criticism that Mr. Wilson brings forth is one of absolute validity. We will be attacked and attacked and attacked on the economic viability of the city's position when we turn around and ask people from the rest of this country to contribute. It is just something to think about. I thank both the witness and the chairman for allowing me to state that. I think somehow or other it is the reality of life in this place and has got to be on the record.

The CHAIRMAN. I thank my colleague for his statement. The gentleman from the District.

Mr. FAUNTROY. Thank you, Mr. Chairman. I would like unanimous consent to insert in the record at this point my opening statement.

The CHAIRMAN. Without objection it is so ordered.

[The information follows:]

PREPARED STATEMENT OF HON. WALTER E. FAUNTROY ON THE RESOLUTION OF DISAPPROVAL

Mr. Chairman, I want only to take a moment to express a few comments about the resolution which is pending before this committee. While I fully understand the concerns which many might have about this legislation, which has been proposed by the Government of the District of Columbia, I must vigorously oppose the Disapproval Resolution and ask that it be caused to fail.

OPPOSES HOUSE CONCURRENT RESOLUTION 420

I do this for a number of reasons. In the first place, the determination of whether or not the legislation is good or bad is a matter which, if Home Rule is to have any meaning, should be left to the elected officials who are required to answer to their constituents in both the short and long run.

In the second place, the question of the legal sufficiency of the legislation, which is admittedly relatively novel, is one which is better resolved by the Courts of the District of Columbia. They have evidenced no inability to strike down legislation which they believe is ultravires to the Charter or which is insufficient for other reasons. Neither have they evidenced an inability to uphold legislation which, while it may be unpopular, is legally adequate.

In the third place, this legislation presents no substantial and adverse impact upon the operation of the Federal establishment. That test developed during the consideration of the Chancery Act, which was subsequently overturned by the Congress, seeks to ascertain whether or not the impact which flows from the proffered legislation of the local government would be detrimental to the functions, purpose, and policies of the United States government. This legislation, whatever anyone may think of it, does not meet that test. It does not affect any foreign interest doing business with the United States Government; it does not affect the Federal Courts; it does not affect the foreign or military policy of the United States; and, it does not affect the general ability of the government to carry out its daily operations.

The argument which will be made speaks, of course, to the potential impact this legislation may have upon the further economic growth of the city. Aside from the fact this potential impact is highly speculative, the decision on the quality and quantity of economic development which may rise from this legislation is a subject matter that is properly one which remains with the city government subject only to the oversight provisions of this committee.

Mr. Chairman, in keeping with my policy that matters of the city government properly should remain in their purview, I will not discuss the substantive contents of the legislation except to note that this bill has been developed by the Council and the Executive after much prolonged consideration and even, indeed, litigation. Housing of all types has been and remains an important and substantial need of the citizens of this city. Whatever solutions this local government determines is proper

pursuant to the Home Rule Act, and that would include any litigation or other remedy established to be pursued, is a policy which I believe ought to be upheld as a rightful law making procedure to the city.

Accordingly, I would ask that we examine the matter with that view in mind. To the extent that we seek examination of the substance of the legislation, I would further ask that it be confined to determining whether or not there is a substantial and adverse impact upon the operation of the Federal establishment. I will point out that such inquiry by this Committee may properly include some discussion of the procedures utilized by the Council and the Executive; but, I would note that such inquiry should be limited, since a failure to meet such procedural tests might well be a reason for one to litigate this matter. For us to detemine whethr or not the government has pursued its procedures properly might be to interfere with the jurisdiction of the Courts.

Mr. Chairman, I thank you, and without objection, I will reserve the balance of my time.

Mr. FAUNTROY. I do want to take a moment however, as did my colleague from Connecticut has, to express a few comments about the resolution. While I fully understand the concerns which many might have about this legislation, which has been proposed by the government of the District.

OPPOSES HOUSE CONCURRENT RESOLUTION 420

I vigorously oppose this disapproval resolution and ask that it be caused to fail in this committee. I oppose it for a number of reasons. In the first place, the determination of whether the legislation is good or bad is a matter, which if home rule is to have any meaning should be left to the elected officials of the city who are required to answer to their constituents on that matter. They have done that. In the second place, the question of the legal sufficiency of the legislation which is admittedly relatively novel is one which is best resolved by the courts. The courts of the District of Columbia have evidenced no inability to strike down legislation which they believe is ultra-vires to the charter or which is insufficient or for other reasons.

In the third place, this legislation presents no present substantially adverse impact upon the operation of the Federal establishment. That test developed during the consideration of the Chancery Act which you may recall, was subsequently overturned by the Congress. This legislation, whatever anyone many think of it, does not threaten the Federal interest. I do not intend to go into the substance of the bill because it has been passed by the duly elected representatives of the people of the city and in as much as it does not threaten the Federal interest should not claim our attention. Yet, I do appreciate the concern that Congressman Wilson has noted about the plight of low-income citizens in the District of Columbia. I am also very pleased to know that he supports the rent supplement program and would hope that when we come back for our supplemental he will assist us in at last restoring to the budget proposed the full funding of the rent supplement program requested by our Mayor and our city government.

RENTAL HOUSING PROBLEM

I am sure that your concern for the low income disadvantaged of the city grows out of your knowledge of the fact that we have a severe problem in the city in terms of rental housing. You are obviously aware of that problem. You are aware we have only a 5

percent vacancy rate in terms of rental housing. Since 1977, we have had some 8,000 units that have converted to condo or cooperatives and there are some 9,000 waiting. You know, too, that after those conversions the people about whom you are concerned would be in need of rent supplement assistance that was denied us this time will not be able to afford to remain in the city even if there were jobs here created by the conversion of communities for higher income use. We have over 43,000 households who are in need of rental assistance right now in the District, households. Not people, but households, who are in need of rental assistance. So, my one question has to do with why you would oppose an act designed to discourage the displacement of elderly tenants and low income people on limited incomes.

Mr. WILSON. Is that the question?

Mr. FAUNTROY. That is one question. The second is: How do you propose we deal with this given the absence of a commitment, to assist the least of these about whom you are concerned, that has been expressed by this Congress thus far?

IMPACT OF RENTAL CONTROL

Mr. WILSON. OK. No. 1, I believe that it is a direct result of rent control that there are no apartments being built and the shortage exists as it does. No. 2, I would say I think in this room are at least among my colleagues present they probably live in the lowest income area and am surrounded, my friends and neighbors are all people who are in the greatest need for housing assistance. I would propose that they be helped the same way they are helped in Montgomery County, through an effective rent supplement program. But the problem with that—and I will get a lot of hoots behind me here—the problem with that is under the present system it is not my neighbors that are being helped, they are living in buildings with holes in the walls and floor, the water does not run. It is the people out on Connecticut Avenue. that are being helped. That is my problem. I would certainly favor and vigorously work and make an offer to the city, as chairman of the Appropriations Subcommittee, of my best efforts to obtain $20 million for rent supplement. I had a majority of the subcommittee tell me they would privately vote for it, but not both. Federal money for rent supplement provides some relaxation in rent controls, such as vacancy. Ideal control and most important luxury decontrol would take place, so that the District's tax base could continue to grow and we would be helping the poor.

But this bill—Council Act 3-204—does not address itself to the problem of the very poor, particularly the very poor minorities. They are not getting any help at all. All they are doing is getting apartments that do not have screens, running water, and have holes in the floor. Those are the ones I want to help. But it takes a good deal of political will because those people are not the ones who vote.

Mr. MCKINNEY. I would like to make one comment.

The CHAIRMAN. The gentleman from the District has the time.

Mr. FAUNTROY. I yield.

Mr. MCKINNEY. As the gentleman from the District knows, I will fight very hard for rent supplemental appropriation but I just

think it ought to be on record for some of our citizens of Washington that I will then return to Connecticut, the city of Stamford where we have a vacancy rate of less than 1 percent, one of the lowest in the United States of America, and that means that there is nothing for anybody at any price and it is going to be very difficult for me to go home and say to my constituents who are paying $475 for a studio apartment, plus utilities, that I am voting for rent supplement in a city that has rent control, but I will still do it, Walter, but it is going to be tough to explain.

The CHAIRMAN. The Chair would recognize the gentlewoman from New Jersey.

Mrs. FENWICK. Thank you, Mr. Chairman. I have a number of questions, some for Mr. Nathan and some observations. I think we ought to draw some distinctions. Let us just be really basic for the moment. We have section 8 subsidized housing as you know. That is costing $5,000 per unit per year and it is $200,000 per unit over a term of years. This is not a simple or inexpensive program, it is a trap into which we have fallen, in a way. Part of that is, as Mr. Badillo pointed out in the Banking Committee when he was still a member, developers have been known to make some $40 million out of a section 8 building. So the rent supplement is not without its pitfalls and dangers, too. And I think we ought, also, to be honest. If we really want to build housing for the poor—and we must—we ought to know that Davis-Bacon means you can build 4,000 units where you could have built 6,000 units. This is something that we are not willing even to talk about, much less legislate about; how many people among our colleagues do you see us lighting with pleasure at the idea that maybe if we are going to talk about housing for the poor this is something we ought to pay attention to. You do not get any enthusiasm. And we know why.

FEDERAL PRESENCE

In addition, I would like to ask something of Mr. Nathan. I was struck by something Congressman Wilson said about the Federal presence in his district and nothing in lieu of taxes. Is it unusual, Mr. Nathan, that the Federal Government pays in lieu of taxes? I did not think it was. I was under the impression that the Federal Government paid in lieu of taxes, is that unusual?

Mr. NATHAN. I think it is not totally unusual but I think it is a very unique situation here because there is no urban area. There can be in Alaska and other places public lands, substantially in Federal control, but there is no urban area where the degree of services required by the Federal Government——

Mrs. FENWICK. I am not talking about services now. I am simply talking about occupying space that would otherwise be taxable. I was under the impression in cities where the Federal Government occupied space that was otherwise taxable they paid in lieu of taxes.

Mr. WILSON. I have been informed the Federal Government pays nothing for the Federal building in Houston.

Mrs. FENWICK. I know. I am saying would it be unusual if they did.

Mr. WILSON. Yes.

Mrs. FENWICK. It is not the usual arrangement?

Mr. WILSON. No.

Mrs. FENWICK. It is not done anywhere as far as you know?

Mr. WILSON. In areas where there are national forests—you said is it done anywhere?

Mrs. FENWICK. I meant in any city.

Mr. WILSON. I do not think so. I do not think so, not military bases in Norfolk.

Mrs. FENWICK. I have another observation. Do you know we had some low-income housing built in Pennsylvania and the windows came in already cased. It went to court and the windows were taken out, decased and all put together again because there was a clause you could not have any single labor saving measure in making these low housing projects. If we are going to try to really develop housing as it has got to be done, some of the costs of housing have to be attacked, too. There is no use in going on like this, not being honest about what is causing this tremendous cost. We have to see if we cannot get preassembled units, plumbing for example, we could save an enormous amount of money, all down the line. Well, I have some other questions.

FEDERAL PAYMENT FORMULA

What formula would you suggest as a just payment? And could you answer me something: Why is it so difficult to get an estimate of the value to the District of all these, not just the Federal payroll, taxes that offices and other such places pay because of the Federal presence—the lobbyist, their lawyers, and all that and the 15 million visitors—when you can get from New York right away the estimate of what 15,000 Democrats are going to bring with their convention?

Mr. NATHAN. I think a formula could be developed, Mrs. Fenwick. I think it would be a tough problem because you would have difficulties of agreement but I believe that the value of the land that the District buildings are on, the Federal buildings are on, in this community, plus the physical facilities, would provide a phenomenal total value that may well exceed, I think probably would exceed, the proportion that the Federal Government provides for the District.

Mrs. FENWICK. Corresponding to the District bulletin of this year the value of the land, 31 percent I think is occupied by Federal buildings, 31 percent they feel costs them $168 million in taxes.

Mr. WILSON. Would the lady yield?

Mrs. FENWICK. Yes.

COMMUTER TAX

Mr. WILSON. This is something I have addressed myself to a great deal. The Wilson formula for how the District should be paid is simple. I think we should pass a commuter tax, we should allow the District to invoke a commuter tax like every other city does. We should take the amount of Federal office space occupied by the Federal Government and pay the District a payment in lieu of taxes on that Federal office space. That would be fair. When the District works these figures up they want to count the zoo, Rock Creek Park, Kennedy Center. Houston would love to have the Kennedy Center free and not have to maintain it. They count the

Mall, Rock Creek Park. Those are unrealistic. What would be realistic would be to simply pay the city the taxes that if the Federal office buildings like this building were occupied by private business would have to pay plus give them the authority for commuter tax.

Mrs. FENWICK. I think that is $168 million——

Mr. WILSON. Except they probably are still counting the zoo as something the Congress should pay the city for.

Mrs. FENWICK. In that $168 million is not included the diplomatic area and I think it should be.

Mr. WILSON. They include choices, they include Federal highways.

Mrs. FENWICK. That is ridiculous

Mr. WILSON. Yes.

Mrs. FENWICK. Thank you, Mr. Chairman.

The CHAIRMAN. Does that conclude the gentlewoman's statement?

Mr. WILSON. If you will let me say one more thing. I appreciate the chairman allowing me to proceed. I misunderstood or Mr. Nathan misunderstood your talking about a formula on supplemental income.

Mrs. FENWICK. No, not supplement, just Federal payment.

Mr. WILSON. I see. All right.

The CHAIRMAN. The gentleman from the District.

Mr. FAUNTROY. Mr. Chairman, I yield to the gentleman from Maryland.

The CHAIRMAN. The gentleman from Maryland, Mr. Barnes?

Mr. BARNES. Thank you, Mr. Chairman. I am not going to ask a lot of questions. I just wanted to pick up on something that Mr. Nathan said because I think it is the crucial aspect of this whole issue. That is the question of incentives.

When capital is seeking a return in our society, these days it is not looking at rental housing as a vehicle for maximizing its return. The fact is that that isn't happening. I think that the gentleman from Connecticut very correctly indicated why that hasn't been happening in the District of Columbia and what the problem with this kind of legislation is.

OPPOSES HOUSE CONCURRENT RESOLUTION 420

I suspect had I been a member of the City Council, I would have voted against it. But that isn't the issue before the committee. At least I don't think it is the issue before the committee. I will vote in opposition to the resolution of disapproval, despite my general agreement with the gentleman from Texas and Mr. Nathan and the case they have made on the merits and substance of the legislation adopted by the City Council.

Unless there is a very clearcut Federal concern that is affected directly by action of the City Council I will under most circumstances oppose resolutions of disapproval.

We had one during this Congress that it seemed did have a direct Federal factor involved in it, that was related to the placement of embassies and chanceries which affected not only Federal policy but international issues as well.

I voted in favor of that resolution of disapproval despite my reluctance to interfere with actions of the City Council. So I won't get into questions because I think the committee has pretty well covered the merits of the issue.

I appreciate the opportunity to make that statement.

The CHAIRMAN. The gentleman from the District of Columbia?

Mr. FAUNTROY. Thank you.

I do want to thank the gentleman for his interest and concern in a very serious problem that we have in this city. I particularly enjoyed the colloquy between the gentlelady from New Jersey and the gentleman from Texas on the question of the Federal payment.

I want to invite you back on the hearing and markup that we intend to have on the formula where I hope you will expand on the views expressed.

RENT SUPPLEMENTS

Finally, let me say while I think it is clear that this committee is going to uphold the integrity of the home rule process on this measure, that you could be very helpful to us in our questions by helping us to restore through your committee and subcommittee the $1 million request for rent supplements that was stricken in the budget this year, fiscal year 1981, and which was designed really to address the needs of some 20 percent.

Mr. WILSON. Could I respond to that?

Mr. FAUNTROY. Please do so because I am impressed with your advocacy of rent supplements.

Mr. WILSON. Well, Walter, you can't have it both ways. As Prime Minister Begin recently said in negotiations over the Sinai, you don't get nuttin for nuttin. I believe that the rent supplement enthusiasm in Congress will be directly related to the City Council's willingness to take a more responsible position on rent control, on condominium conversion.

I believe that the committee, when I chaired it as Mr. Dixon chairs it, as well as the full committee will be most forthcoming, will be most forthcoming toward a program that is targeted toward the people that I believe that this committee and that I am concerned about, and that is the marginal subsistence income poor of the District. But you are not going to be able to take care of them and take care of Connecticut Avenue at the same time.

Mr. FAUNTROY. Do you argue for selective control?

Mr. WILSON. I am arguing, saying that the responsibility we have to the poor of the District is best served the way it is served in Montgomery County, that is to say under a certain income level they shall be required to pay no more than 20 to 25 percent of their income for rent and then the District will supplement their rent beyond that.

Then apartments will be built, then taxes will be paid, then buildings will be repaired, but you can't have it both ways, in my judgment.

I would say in response to my colleague, Mr. Barnes, if I were on this committee I would probably vote and I would probably vote against the resolution also. But the Federal implication here, Mr. Barnes, the Federal implication here is that as the tax base of the District of Columbia deteriorates because of this sort of legislation by the City Council, you and I are going to be required to appropri-

ate much more money for the District of Columbia and it is going to become increasingly difficult.

Mr. FAUNTROY. Charlie, let's get together on your suggestion because we may be able to come up with something.

Mr. WILSON. We could come up with something and could probably agree on a package except no other members of the Council will vote for it in an election year.

The problem is us poor people don't help——

Mr. MCKINNEY. In this committee quite often when you are right, you lose, like I always have on the commuter tax and like you are now.

Mr. WILSON. You mean this committee doesn't even report the commuter tax out?

Mr. MCKINNEY. We have had a slight problem——

Mr. BARNES. The committee has always shown great wisdom.

The CHAIRMAN. The time of the gentleman has expired.

COMMITTEE OPPOSITION TO HOUSE CONCURRENT RESOLUTION 420

The Chair is going to in a moment stand in recess for 10 minutes so that our colleagues can make this rollcall, but the Chair would like to say to my colleague, Mr. Wilson, that as you have listened to the number of colleagues speak and raise questions, I think we have indicated that at least five members, the five members who are present, stand in opposition to the resolution.

In case you are not here, whether we have a quorum or not have a quorum, I would like to advise my colleague that Mr. Leland, Mr. Moffett, Mr. Mazzoli, Mr. Harris, Mr. Gray, and Mr. Stark all have given proxies in opposition to the resolution of disapproval. So that would make 11 votes right here, without knowing what the proxy vote is on the minority side which clearly would be in opposition to the resolution before us.

It is my intention if there is a quorum present, and you certainly are aware of the fact it is very difficult to get a quorum on this committee because it is perceived by many of my colleagues as low priority, that I would even defer to maintain the integrity of the process.

If there is no quorum, we will try to seek a quorum but I think clearly the gentleman understands that the votes are not there to bring——

Mr. WILSON. I am not astounded by the results I would like to tell the chairman.

The CHAIRMAN. I appreciate that.

HOUSING PROGRAMS

This final comment: I think this resolution and the vote that my colleague from Connecticut alluded to, that is the vote on the housing bill which said any community that has a rent control ordinance shall not qualify for certain housing programs, is unprincipled and undemocratic. The only way a community gets rent control is if their local elected officials enact it, which is part of our democratic way of life, or if by referendum or initiative measure the residents of a given community decide that they shall have it and that also is within the framework of the democratic process.

I felt horrified by the fact that my colleagues chose to vote for that particular matter because what it said was that we in the Congress shall penalize the local community for engaging in the democratic process, using the instruments that it perceives as available in addressing its particular problems.

I was shocked and appalled at what my colleagues did. The point I tried to make—and I will yield—is that this resolution and that vote did not address the reality. I think what we have to do is diligently pursue national policy.

What I think the gentlewoman from New Jersey, the gentleman from Connecticut, the gentleman from Texas point out very clearly is that in the Congress of the United States we are not addressing the human misery that is becoming a reality of the urban centers of America and maybe what we ought to do with this committee is pass all of the amendments to the Home Rule Act that would give the District of Columbia all of its rights and prerogatives and turn this committee into a committee on the urban problems of America and let's get at national policy.

The CHAIRMAN. The committee stands adjourned——

Mrs. FENWICK. I would like to say I voted—I don't think it is wise to put Federal money into what you consider to be a very dangerous and unwise situation. It is understandable that local people under local pressures will vote for things which are unwise. It has happened in my State, it happened in every State—well, thank heavens not every State—but you cannot keep on pouring Federal money into a basket with a hole in it.

Mr. WILSON. I would remind you that the vast majority of the gentlelady's colleagues agreed with that position.

The CHAIRMAN. The committee will stand in recess for 10 minutes.

[A brief recess was taken.]

The CHAIRMAN. The committee will come to order.

Our next witness was to be the Honorable Marion Barry, Mayor of the District of Columbia, but I am advised that the Mayor is busy with the situation with regard to the District jail. Mr. Robert Moore, Assistant Director for Housing, will present testimony for the city.

We would like to welcome you, Mr. Moore. You may proceed.

STATEMENT OF ROBERT MOORE, DIRECTOR, DEPARTMENT OF HOUSING, AND MS. BARBARA WASHINGTON, ASSISTANT CITY ADMINISTRATOR

Mr. MOORE. Thank you, Mr. Chairman.

As you have stated, Mr. Chairman, the Mayor is involved in the job action at the Department of Corrections and could not be here this morning and asked me to present his testimony instead.

I would like to summarize the testimony, present the full text of the testimony for the record, and just make comments, enlargement on the major matters.

Before doing that, I would suggest to the first witness, Congressman Wilson from Texas, I would make a couple of corrections.

First, I am from New Jersey. I worked in Texas for 8 years. I went there as a Director of Housing for the city and I did some training, rather than being trained, in Texas.

The CHAIRMAN. The record will so reflect the gentleman's comments.

Mr. MOORE. Thank you for this opportunity to express the Mayor's strong opposition to House Concurrent Resolution 420 which would provide for congressional disapproval of Act 3-204, the Rental Housing Conversion and Sale Act of 1980.

HOME RULE ACT

The primary purposes of the District of Columbia Self-Government and Governmental Reorganization Act, as stated in section 102(a), are to "Grant to the inhabitants of the District of Columbia powers of local self-government" and "To the greatest extent possible * * * relieve Congress of the burden of legislating upon essentially local District matters."

In view of these stated purposes, this committee, in the exercise of it's oversight responsibilities, has appropriately limited the congressional review function to questions of whether a local act exceeds the District's authority or in any way adversely affects a legitimate Federal interest.

There is no question that enactment of the Rental Housing Conversion and Sale Act of 1980 was within the legislative power of the Council of the District of Columbia. None of the specific limitations in section 602(a) of the Home Rule Act precludes enactment of this legislation.

It is also clear that the Rental Housing Conversion and Sale Act of 1980 does not adversely affect a Federal interest. The issues addressed in Act 3-204 are restricted to purely local matters.

NECESSITY FOR COUNCIL ACT 3-204

While I don't believe this to be the appropriate forum in which to debate the issue of the desirability of a law prohibiting condominium conversions, since the issue has been raised, I want to briefly discuss several points in the Mayor's testimony.

First, we have had an accelerated conversion of rental units that we are concerned about. This is a phenomenon throughout the country. There is a significant shortage of rental housing throughout the country that is not laid at the foot of rent control but more particularly to tax policy and incentives.

In the District of Columbia we certainly want to encourage homeownership. We have a 65-35 rental unbalance in the District's housing rental market and we are working hard to make sure that that balance is corrected. We certainly will not and do not see the need for condominium conversion to be unregulated but to bring it into the part of the District of Columbia's housing program.

HOUSING FOR LOW INCOME

Under the Mayor's leadership, the District government is committed to increase homeownership opportunities for District residents, particularly for moderate and lower income groups. As stated previously, the District's housing stock is approximately 65 percent rental use and only 35 percent homeownership. Those below middle income levels are substantially renters and are more threatened by displacement. It is a goal of this government to

create a better balance of homeownership in the District and we will propose increased resources to be allocated to that end in our housing policy and program.

If you ride around the District of Columbia, you will see the Mayor's housing program in action. Almost 4,000 units are under construction. In addition, we have aided tenant organizations to purchase 18 buildings representing 1,202 units. My program for housing is providing new opportunities for those being left out by the private market as we attempt to catch up from past years of inactivity.

Clearly, with all we have started, there is still not enough housing for all of our people. But what we have started is a broad program to increase low income homeownership, to reduce displacement and to revitalize neighborhoods in a manner that protects the interests of all groups.

I would like to further state, Mr. Chairman, the supply of housing in the District of Columbia does not trickle down to the poor, it trickles up to the higher incomes. Certainly our programs are trying to address this reverse filtering having an impact on our community.

The most important part is certainly we agree that condominium conversion is a significant source of revenue. What is important is to remember that the city of the District of Columbia and all cities is the people and that this government exists to serve the public interest. Further, this administration is committed to act in behalf of those needing maximum protection and resources.

When market forces create a conflict between goals that would offer increased tax revenue but would yet 'cause substantial displacement of the poor, elderly and the handicapped, then this government will act in behalf of those needing maximum protection. To do less would sacrifice the poor, elderly and the handicapped on the alter of increased tax revenue.

I do not believe and the Mayor does not believe we are at a point where consideration of revenue over people's lives is up for discussion. The District of Columbia can and will increase its tax base through economic development, with the Convention Center and surrounding development, an all time high in commercial office construction, a redeveloped downtown, and neighborhood revitalization all carried out in a sensitive manner that preserves the contributions of all of our citizens that makes Washington, D.C., a great city.

The Mayor and I believe that Act 3-204 is a reasonable and rational effort by the District government to meet the needs of all citizens of this city. Since we believe that the enactment of the Rental Housing Conversion and Sale Act of 1980 was a proper exercise of the legislative authority granted to the District government, I urge this committee to reject House Concurrent Resolution 420.

I would be happy to answer any questions the committee may have.

[The prepared statement of Mayor Barry and accompanying study follow:]

PREPARED STATEMENT OF HON. MARION S. BARRY, JR., MAYOR OF THE DISTRICT OF COLUMBIA

Mr. Chairman and members of the committee, thank you for this opportunity to express my strong opposition to House Concurrent Resolution 420, which would provide for Congressional disapproval of Act 3-204, The Rental Housing Conversion and Sale Act of 1980.

The primary purposes of the District of Columbia Self-Government and Governmental Reorganization Act, as stated in Section 102(a), are to "Grant to the inhabitants of the District of Columbia powers of local self-government" and "To the greatest extent possible . . . relieve Congress of the burden of legislating upon essentially local District matters." In view of these stated purposes, this Committee, in the exercise of it's oversight responsibilities, has appropriately limited the Congressional review function to questions of whether a local act exceeds the District's authority or in any way adversely affects a legitimate Federal interest.

COUNCIL ACT 3-204

There is no question that enactment of the Rental Housing Conversion and Sale Act of 1980 was within the legislative power of the Council of the District of Columbia. None of the specific limitations in Section 602(a) of the Home Rule Act precludes enactment of this legislation. It is also clear that the Rental Housing Conversion and Sale Act of 1980 does not adversely affect a Federal interest. The issues addressed in Act 3-204 are restricted to purely local matters.

While I don't believe this to be the appropriate forum in which to debate the issue of the desirability of a law prohibiting condominum conversions, since the issue has been raised, I want to briefly discuss the problem.

CONDOMINIUM CONVERSIONS

Condominium conversion is one of the most urgent and difficult issues in the District of Columbia. The conversion of rental apartments to condominium ownership has become a national phenomenon which has reached crisis porportions in the District. Rental housing stock in the District has been reduced by conversion of apartment buildings to condominiums at an accelerating rate over the past few years. For example, the 2,000 units which were converted in 1978 were five times the number converted in 1977. In May of 1979, a partial moratorium was passed, limiting conversion to buildings where the conversion was in progress, or where a majority of the tenants agreed to the conversion. Despite this legislation, the number of apartment units converted in 1979 surpassed the total number converted in all of 1978. And it is expected that conversions will continue at the same rate throughout 1980.

The impact of conversions is especially noticeable in Washington because traditionally the District has had a housing market oriented toward rental units. Presently, sixty-five percent of District households rent, making the District second only to New York City in the percentage of rental households. This figure represents a ten percent reduction in renters since 1970.

Homeownership is to be encouraged, of course, but the problem is that the price of increased homeownership through conversion includes the displacement of lower income family and elderly rental households. These households have limited housing choices in the City. The District, like other cities, has a very low overall vacancy rate. There is also a rapid rise in rents and sales prices. The groups hit hardest by these economic forces are the elderly, low income families and moderate income families.

HOUSING FOR LOW INCOME

Under my leadership, the District government is committed to increase homeownership opportunities for District residents, particularly for moderate and lower income groups. As stated previously, the District's housing stock is approximately 65 percent rental use and only 35 percent homeownership. Those below middle income levels are substantially renters and are more threatened by displacement. It is a goal of this government to create a better balance of homeownership in the District and we will propose increased resources to be allocated to that end.

For example, the District has received a Federal grant for an innovative program, the most extensive of its kind in the country. The grant will fund the First Right to Purchase Program to provide start-up assistance and down payment money to help low and moderate income families purchase their buildings. This program is a key element in the City's efforts to expand housing opportunities for lower income families. Further, this grant will help increase the momentum of the City's overall

housing program, the goal of which is to add 6,600 new units to the City's housing stock by 1982.

Thanks to your Committee's efforts, we have now received full authority to establish the new Housing Finance Agency. This Agency will be a major source of additional revenue for housing development activities serving primarily low to moderate income households.

We have also made significant progress in joint private/City efforts to identify and redevelop vacant sites to help build needed housing units and to stimulate jobs and economic development activity.

HOUSING PRODUCTION

If you wer to ride around our City, you would see housing production at an all-time high, assisted by the D.C. Government: Our ambitious program has almost 4,000 units under construction. We have aided tenant organizations to purchase 18 buildings representing 1,202 units. My program for housing is providing new opportunities for those being left out by the private market as we attempt to catch up from past years of inactivity. Clearly, with all we have started, there is still not enough housing for all of our people. But what we have started is a broad program to increase low income homeownership, to reduce displacement and to revitalize neighborhoods in a manner that protects the interests of all groups. Our Bates Street project is a prototype effort of mixed income homeownership, subsidized rental and a comprehensive neighborhood revitalization of an older neighborhood. There are few cities in the nation that have as much housing under construction directed toward the elderly and lower income families. All of these activities make up the fabric of the District's Housing Policy in which condominium conversion plays a role.

CONDOMINIUM CONVERSION

I would like to emphasize that condominium conversion is not a negative phenomenon in and of itself. A crisis develops when conversions occur too quickly and new housing is not coming on stream. Then the process becomes disruptive and exploitative because the conversion field is lucrative, and the market becomes highly speculative, as well. Local governments must control the conversions so that condominium conversions become a positive and integral part of our housing program for all of our citizens.

The economic factors contributing to housing demand are clear. The market system for responding to that demand, however, is not working—even with the substantial aid that Federal housing assistance programs and tax incentives have provided in recent years.

HOUSING AVAILABILITY

The incentives for investing in the production of new rental housing or, for that matter, continued ownership of existing rental housing do not outweigh the risks and uncertainies caused by the high cost of construction, utilities, financing and the trend toward rent control and other regulatory measures being taken by the larger cities. New rental housing that has been constructed or substantially rehabilitated has been feasible primarily because of the current Federal Section 8 rental assistance program. However, the Section 8 Program has been available only on a limited and sporatic basis.

The result of the supply and demand crisis is that the classic "trickle down" system through which low and moderate income families have been housed in the past in the private market no longer operates. In fact, it is operating in reverse.

Now, instead of older housing stock filtering down to lower income families, housing is actually filtering up to those with higher incomes who are now competing for housing in traditionally low income neighborhoods. The result is displacement of low and moderate income households. Our studies of neighborhood real estate transactions and other trend indicators show significant renovation activity and increased homeownership in virtually all neighborhoods of the District. Our information also shows, however, that displacement is substantially complete in neighborhoods like Adams-Morgan, DuPont Circle and Capitol Hill where the average selling price of condominium units is above $90,000. Clearly, this is a crisis with mixed blessings. Increased homeownership in the District has been a longstanding goal for all income groups. However, the current trend toward increased homeownership is leaving out and displacing from our City many long-term low and moderate income residents.

The situation we face is a complex dilemma which the District, like other cities, cannot solve alone. Local financial and legislative resources are being used in more and more creative ways—but they are not adequate.

DISTRICT'S POSITION RE HOUSING

In the District, we have attempted since 1974 to restrain the market through such legislative measures as rent control and condomium conversion regulations. However, at a time when the District's housing market has been showing the ever-growing effects of an increased demand for housing from higher income households, with inadequate new housing being built for any income group, the District government has no choice but to regulate the housing market. In the absence of regulation, we would witness more displacement, a loss of housing units with an increased number of households seeking housing, a continued inflation of the cost of housing units, and increased competition for housing between low and moderate income households and more affluent households. With a carefully defined policy and regulation, the District will move forward with a positive policy that integrates condomiums and cooperatives as an important contribution toward increasing opportunities for homeownership for moderate and low income, as well as the more affluent households.

What is important to remember is that this City is the people, and this government exists to serve the public interest. Further, this Administration is committed to act in behalf of those needing maximum protection and resources. When market forces create a conflict between goals that would offer increased tax revenue, but yet would cause substantial displacement of the poor, the elderly and the handicapped then this government will act on behalf of those needing maximum protection. To do less would sacrifice the poor, the elderly and the handicapped on the altars of increased tax revenue. I do not believe that we are at a point where consideration of revenues over people's lives is up for discussion. The District can and will increase its tax base through economic development, with the Convention Center and surrounding development, an all time high in commercial office construction, a redeveloped downtown, and neighborhood revitalization all carried out in a sensitive manner that preserves the contributions of all of our citizens that makes Washington, D.C. a great City.

I believe that Act 3-204 is a reasonable and rational effort by the District Government to meet the needs of all citizens of this City. Since we believe that the enactment of the Rental Housing Conversion and Sale Act of 1980 was a proper exercise of the legislative authority granted to the District Government, I urge this Committee to reject House Concurrent Resolution 420.

I would be happy to answer any questions the Committee may have.

U.S. Department of Housing and Urban Development
Office of Policy Development and Research

The Conversion of Rental Housing to Condominiums and Cooperatives

A National Study of Scope, Causes and Impacts

SUMMARY

The recent growth of condominium and cooperative conversions is a response to basic changes in the Nation's social and housing market conditions which, in its course, helps some and hurts others. For this reason, conversion has sparked considerable controversy -- a controversy exacerbated by the shortage of information about what is taking place. This report, prepared in response to a Congressional directive, presents the results of a multi-faceted study designed to provide this information. It documents the present and probable future extent and location of conversions, the factors contributing to their increasing numbers, and their effects -- on people, neighborhoods, and communities. As will be apparent, the scope, causes, and consequences of the conversion phenomenon are, in many ways, quite different than is generally understood.

* * *

Conversion changes the legal form of a multi-family rental property from single ownership by a landlord to multiple ownership. In most condominium conversions, the landlord first sells the property to a developer specializing in conversion who then sells the individual units. Most conversions are accompanied by some minor or cosmetic improvements to the property's condition, equipment, or amenities; however, a few conversions have involved the substantial rehabilitation of older buildings.

Up to now, the number of conversions which have taken place in the Nation has generally not been known because of the difficulty of assembling information from local public records, because the processes which govern conversions in various housing markets differ, and because of differences in terminology regarding conversions across these markets. Having a common definition which applies across jurisdictions is a prerequisite for arriving at a national count and analyzing the significance of the volume of conversion activity. For the purposes of this study, a rental building is considered to be converted to condominium ownership when the first unit is sold as a condominium. In New York, where most of the Nation's cooperative conversions occur, a rental building is considered to be converted to a cooperative when the legally required number of tenants have purchased shares.

Very few rental properties were converted to multiple ownership in this country prior to 1970. Since then, 366,000 renta housing units have been converted. Of these, only 18,000 are cooperative convers ons. The rate of conversion has been accelerating: in the period 977 through 1979, 260,000 units were converted 71 percent of the decade s total To date conversion activity has been concentrated in larger metropol tan areas: 76 percent of all conversions have occurred in the 37 largest SMSAs, and 59 percent have taken place in just 12 of these areas. There is some evidence, however, that the conversion phenomenon may be expanding to or increasing in smaller metropolitan areas.

Within the largest metropolitan areas of the Nation, a surprisingly large amount of conversion (49%) has occurred in suburban jurisdictions; the remaining 51 percent has taken place within central cities.

By the end of 1979, 1.3 percent of the Nation's occupied rental housing stock had been converted. However, there is considerable variation from one metropolitan area to another, as well as within each area. For example, in the New York City and Los Angeles areas, 1 percent of all rental units were converted during the 1970s, compared to 6 percent or more in the Chicago, Denver and Washington, D.C. areas. There are some atypical suburban communities and smaller cities where as much as 20 to 30 percent of the rental stock has been converted, and a few sections of cities where more than 30 percent of the rental stock has been converted.

Nationally, the volume of condominium and cooperative conversion activity is expected to increase through 1985. The analysis suggests that the number of conversions will increase each year, but at successively decreas ng rates. A trend-line projection of conversion volumes through the year 1985, based on past experience but mod fied to consider supply, demand, and current financial market factors suggests that about 1.1 million rental units will be converted dur ng this six year period. Of course, future conversion volumes may be influenced by many currently unknown factors, including long-term financial conditions, government regulation, or any changes which may be made to the Federal tax code.

There are a few metropolitan areas where the supply of rental properties most suited to conversion (using market-derived standards which have applied to date) will be nearly exhausted within five years.

Conversions have been more numerous in metropolitan areas characterized by strong and growing market demand for homeownership. Conversions are not as some market specialists believe, associated with distressed renta markets For example, there is no evidence that conversions are concentrated n metropolitan areas with higher than average rental vacancy rates or depressed rent levels. Furthermore, legislated rent controls are not necessary condit ons for or eading causes of conversions, if for no other reason than that so few of the jurisdictions with conversions have enacted such measures.

In most parts of the country, however, average operating margins for rental properties do appear to be declining. This has contributed to apartment owners' willingness to sell their buildings to con-

verters. For many rental property owners, no projected amount of rental income, allowable tax depreciation, property appreciation, or tax sheltering can equal the return received on the sale of their properties for conversion. Strong demand for the kinds of housing represented by condominiums and cooperatives, combined with potentially large profits, has made converters willing to pay prices for rental properties that are far in excess of what these buildings could command based on continued use as rentals. The ability of converters, then, to turn over individual units in these buildings for higher prices is, in great measure a function of increasing demand for homeownership which is fueled by ri ing incomes and inflation. Recent inflation also tends to shift the homebuying demand of an increasing number of middle-income households from traditional single-family houses, that may be priced too high, to less expensive condominiums and cooperatives.

The number of conversions tends to be somewhat greater in metropolitan areas which are characterized by growing household populations and larger proportions of households having one or two persons or headed by an individual 35 years old or less. Conversions are also somewhat more numerous in areas where more households have incomes above $25,000, where luxury buildings form a higher proportion of the rental stock, and where the rental housing stock is relatively new.

Conversions are products of a shift in housing demand, and a corresponding shift in the use of the existing housing supply away from rental toward ownership. The net effect of conversions on the balance of supply and demand can be estimated by considering the pre and postconversion tenure status of households affected by conversion. Those renters who buy contribute to a reduction of overall renter demand; many converted units remain available as rentals; and some tenants move out upon conversion and purchase a unit elsewhere. The cumulative effect of these factors contributes to a significant moderat on of the actual supply impact on the rental market. This ana ys s ndicates, nationally, that for every 00 rental units converted, there is a net increase of 5 units for sale to owners, and a net decrease of 5 available rental units. In other words, when changes in demand and supply resulting from conversion are juxtaposed, the effect on the rental market is considerably less than the total of all units converted.

Based on these figures and the volume of conversions nationally, the net effect of conversions on the rental market has been to reduce the Nation's supply of available rentals by 18,000 units in the 1970 to 1979 period.

The impact of conversions can also be assessed in relation to other components of change in the rental housing market. Considering total demand for rental housing, the amount of new rental housing being produced, and losses to the rental inventory through various means, there has been a shortfall of rental housing in the last

several years. Conversions have contributed to this shortfall. For example, in 1977, they accounted for 17 percent of excess demand over supply. Unlike other losses of rental housing, however, conversion often results in a concomitant reduction in renter demand because previous renters become homeowners.

Conversion can produce either very substantial or minimal movement of households in and out of converting buildings, depending on the proportion of prior tenants who either buy converted units or remain in the buildings as renters. Of all households occupying units in buildings that were converted after January 1977, 58 percent had moved out as of January 980. The remaining 42 percent cont nued to live in the buildings as e ther owners (22%) or renters (20%) along with new occupants who had moved in s nce the conversion; most of the new occupants (41% of all current res dents) owned their units but the remainder (17%) rented. Consequent y, the residents of these buildings after conversion were 63 percent owner occupants and 37 percent renters.

Of the 37 percent of postconversion residents who rent their units, about one-ha f currently lease from the converter/developer and one-ha f from nvestors or re at ves. That there are households rent ng from converter/developers reflects the fact that some recently converted buildings are still in the transition process: a portion of these renters are finishing out current leases; and a portion are cont nuing to rent, as permitted by local law. Some of these units may also be held as long-term investments by the converter.

Thirty-nine percent of converted units are bought by households earning more than $30,000 annually; but, since converted rental units are often less expensive than newly constructed condominiums and cooperat ves or single family homes, they also provide a new avenue of ownership for smaller, younger households who have incomes insufficient to buy other types of housing.

Nearly two-thirds of the owner occupant households in converted buildings are headed by an individua who ho ds a professional or managerial position; about one-half are 35 or younger, while only one-fifth are over 55, and only 9 percent are over 65. About 10 percent of the owner occupiers of converted units are black, whereas only 7 percent of all owner occupants in the Nation are black.

Fifty-seven percent of the owner-occupant households in converted buildings are single persons (36% single women and 21% single men) compared to merely 14 percent (10% women and 4% men) of all owner occupants in the Nation.

Compared to all owner occupants nationally, fewer owner occupants of converted buildings are elderly (9% versus 22%). When buyers who previously rented in the converted buildings are compared with buyers coming from outside, the former tend to be older and to have higher incomes.

Two-thirds of all owner-occupants name economic factors as their primary reasons for buying: to gain a hedge against inflation; to stabilize housing costs; to provide a tax shelter or investment; to find an alternative to single family housing; or to obtain a buyer discount. Tenant buyers are more likely than outside buyers to say they bought because they liked the location and did not want to move.

Most of those who buy converted units increase their expenditure for housing. Total monthly outlays made by tenant buyers are typically 36 percent higher than what they paid in rent, while the median increase in monthly housing costs for buyers coming from other housing is 62 percent; however, these figures do not take into account tax benefits associated with owning a home or potential appreciation.

Those who do not buy but either move from converting buildings or remain there as renters come from all age and income categories. Renters in converted units tend to have lower incomes than owners in the same buildings; but incomes that are much higher than all renters nationally. While 39 percent of converted unit owners earn over $30,000 annually, only 22 percent of renters have this level of income.

Tenants of converting buildings typically are given about 70 days by the converter to decide whether or not to buy. Many tenants are distressed -- at least initially -- by the prospect of conversion. About one-fourth of tenants who bought or cont nued to rent their units after conversion report that they felt under pressure to buy; the pressure was not so much caused by harrassment or high pressured sales tactics as it was by being faced with an unanticipated housing decision. However, nearly three-fourths of those who move from converting buildings (former res dents) say that they felt under pressure, more than likely caused by the disrupt on and uncerta nties associated with such a move. More elderly than non-e derly tenants (28% versus 18%) felt pressured by the conversion experience.

One-half of all former residents of converted buildings had some difficulty in finding new housing; elderly, non-white, and lower income former tenants are more likely to report such difficulty.

One of the major concerns relating to conversion is the extent to which it involuntarily displaces prior tenants. Including both those who had moved out as of January 1980 (58%) and those who continue to rent but may yet move (an estimated 8%), the average proprotion of prior tenants who move out following conversion may be as high as two-thirds. However, not all of these moves will be involuntary; nationally, nearly 40 percent of all renters move at least once each year.

If displacement is defined as movement to rental housing that is of similar or lower quality at higher cost, or of lower quality at

equivalent cost, then 18 percent of all households (27% of households with persons age 60 and over) who moved from converting buildings have experienced the adverse effects of displacement; this is equal to 10 percent of those who resided in converted bui dings prior to conversion. Another 6 percent of all former residents moved to lower quality housing renting for less than they had paid prior to conversion.

Some conversions require people with low or moderate incomes to move because they cannot afford to buy their apartments. About 42 percent of those who moved out of converted bui dings had incomes which, according to generally accepted criteria, were too low to have permitted them to buy their converted units; 47 percent of all former residents say they did not purchase because they believed they could not afford to do so.

Seventy percent of all former residents continue to rent after conversion, and they typically experience rent increases of less than 10 percent however, 28 percent pay at least 25 percent more for rent. Those former res dents who decide to buy housing elsewhere typically pay 68 percent more per month for housing, without taking into account possible tax savings and appreciation. Less than one-fifth of all former residents consider their new residence to be inferior to the one they lived in prior to conversion.

Ninety percent of all former residents indicate they are satisfied with their new housing; this is roughly the same degree of housing satisfaction reported for those replacing them in the converted buildings. Nearly three-fourths of all former residents have moved to a new neighborhood as good as or better than their old one. Eighty percent live as close or closer to friends and relatives as before the move. Those with lower incomes, however, are more likely to report that their neighborhood is worse than the old one.

Forty-three percent of all former residents are under age 36 and one-fifth are over 65.

Those who move have incomes that are, on average, lower (20% under $12,500 than buyers of converted units (12% under $12,500) but higher than renters in converted buildings. About 12 percent of all those who move from converted buildings are elderly households with ncomes of less than $12,500. Eleven percent are black; one percent are Hispanic.

Conversions, when sufficiently numerous and concentrated, can have significant impacts not only on individual households but also on entire communities or neighborhoods. Reassessment of property following conversion leads to increased revenue from local property taxes. The degree of impact is a function of the particular jurisdiction's tax rates for various classes of property, its assessment practices, and provisions providing tax relief for special classes

of property owners. When weighed against the total revenue from property taxes, however, the total impact of conversions to date on local property tax revenues has been very small. Less clear is the impact that conversions may have, in neighborhoods where concentrated, on demands for public services and, therefore, on the long term pattern of public expenditures. Available evidence, however, suggests that the demand for public services in these neighborhoods is basically unaffected by conversions.

It is useful to classify conversions as occurring in one of three types of neighborhood: central city nonrevitalizing, central city revitalizing and suburban nonrevitalizing. In almost two-thirds of the central cit es located in the 37 largest metropolitan areas, conversions are concentrated in nonrevitalizing neighborhoods characterized by above average med an ncomes rent levels, and housing values, and by renta vacancy rates equal to or below the city average. One-third of the central cities had conversion activity in at least one revitalizing neighborhood. However, these same cities had a majority of their conversion activity in nonrevitalizing neighborhoods. Conversion has tended to lag behind rather than serve as a catalyst for other reinvestment in revitalizing areas. Conversion activity has had little impact on housing conditions in either type of central city neighborhood; however, as indicated earlier, some converting buildings in revitalizing neighborhoods do undergo major rehabilitation.

In neither type of central city neighborhood has conversion activity produced very much change in the soc oeconomic characteristics of residents. In central c ty revital zing neighborhoods, however, socioeconomic changes appear to resu t from the overall revitalization process, not necessarily from convers on sign ficant population changes had occurred in these neighborhoods prior to the onset of conversions. In central cities, pre and postconversion residents are similar in most respects.

However, postconversion residents are slightly less likely to be non-white (15% versus 21% before conversion), over age 65 (17% versus 23%), or retired (17% versus 23%), and more likely to be employed in professional or managerial jobs (63% versus 59%). Just over one-fourth (27%) of those moving to converted buildings in central cit es lived in the same neighborhood prior to the move, 34 percent ved n another city neighborhood, 12 percent lived in one of the city's suburbs, and the balance (27%) came from another city.

Conversion has occurred in nonrevitalizing suburban locations in 27 of the 37 largest metropolitan areas; 19 such areas have higher proportions of their total conversion activity in suburbs than in their centra cities. These are nearly always close-in, economically stable suburbs, whose residents are typically middle to upper-middle income whites. More of the conversions here involve garden and

townhouse style rather than high-rise apartments. These conversions have had a negligible impact on housing quality, since most involve minor repairs to properties already in sound condition. Pre and postconversion residents of these buildings are similar, although postconversion households are slightly more likely to be non-white (17% versus 12% before conversion) and to hold professional or managerial positions (59% versus 52%) and less likely to earn incomes below $12,500 (16% versus 27%), to be retired (11% versus 21%), or to be over age 65 (13% versus 18%). Less than one-fourth of the postconversion residents of these buildings come from other housing in the same neighborhoods.

Federal government programs have so far played minor roles in relation to condominium and cooperative conversions. Programs of secondary mortgage market institutions (the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation) make it easier to finance and resell converted units which meet their criteria for purchase thus FNMA and FHLMC indirectly influence such practices as the proportion of presales, proportion of units occupied by owners, and condition of properties. A few state and local governments, many with financial support from the Federal government, have developed innovative programs intended to provide technical and financial assistance to groups seeking to convert their buildings, to subsidize low- and moderate-income households in converted buildings, or to assist households relocating after conversion.

State and local governments also have begun to respond to conversions with various types of regulatory legislation. Conversion-related regulations can be categorized as follows: those designed to protect tenants of converting buildings; those intended to protect buyers of converted units; those developed to preserve the supply of rental housing; and those aimed at preserving the supply of low- to moderate-income housing. To date, very few states and localities have passed the latter two types of legislation.

Just under one-half of the states have legislated protections for tenants of converting buildings; and about one-half have laws protecting purchasers of both new and converted condominium units. States which have enacted tenant or buyer protection measures often contain metropolitan areas which are experiencing high levels of conversion.

At the local level, although just over one-third of all jurisdictions have had or still have conversion activity, fewer than one in five of those experiencing conversions has passed a regulatory ordinance. Larger jurisdictions and those with more conversions are more likely to adopt such legislation. About 6 percent of jurisdictions with past or present conversions have at one time or another adopted temporary moratoria halting all conversion activity.

Nearly all local regulatory ordinances provide some protections to tenants in converting buildings. Such ordinances typically require 90 to 180 days notice to tenants of a planned conversion. A few localities offer special protections to elderly and handicapped tenants, such as the right to extend their lease period.

Most ordinances protect condominium buyers by requiring code inspection, engineering reports and disclosure statements, or warranties on major structural features. A few ordinances seek to preserve the local rental stock, typically by restricting conversions when the rental vacancy rate drops below a certain percentage.

With regard to government action to affect the level of conversion activity, three of every four local chief executives prefer that neither the state nor Federal government act either to encourage or to discourage conversions. Over 60 percent also believe that local governments should avoid such actions. Of those who do see a role for government, a somewhat larger proportion prefers actions that would encourage rather than discourage conversions, such as programs to enable low- and moderate-income households to purchase their units or technical assistance programs for tenant-sponsored conversions.

Officials representing jurisdictions with heavy recent conversion activity are more likely than others to favor government regulatory intervention. About one-fifth of these would have any level of government act to discourage conversions. Similar proportions of this group would have local or state governments act to encourage conversions. Nevertheless, majorities of those local officials with the most conversion experience prefer that the state and Federal governments neither encourage nor discourage conversions.

Future changes in the volume, location, and character of conversions could, of course, alter the impacts that have been specified here -- both positive and negative -- on people, neighborhoods, and communities. For instance, if there is a homeownership market for units that are older or of lower quality than those currently being converted, a larger proportion of future conversions may involve rehabilitation and revitalization. This would result in more dramatic changes in the housing stock than has presently been observed. On the other hand, if such buildings contain higher proportions of elderly, minority, or low-income residents, the frequency with which conversion creates hardship for such households may also increase.

The CHAIRMAN. Mr. Moore, thank you for your testimony on behalf of the Mayor and the city. I believe that you have anwered all four of the questions that I have, but just for the record so that it is neat, in one place, I would like to ask you the following four questions?

COUNCIL ACT 3-204

Do you believe that the subject of Council Act 3-204 is a proper subject for Council consideration under the legislative power delegated to it by the Congress under the Home Rule Act?

Mr. MOORE. I do.

The CHAIRMAN. Do you believe that Council Act 3-204 contains any provision which is prohibited by the limitations of the Home Rule Act?

Mr. MOORE. I do not.

The CHAIRMAN. Do you think any provision of Council Act 3-204 violates the U.S. Constitution?

Mr. MOORE. I do not.

The CHAIRMAN. Finally, do you think that any provision of Council Act 3-204 specifically transgresses the Federal interest and, if so, in what way?

Mr. MOORE. I do not believe that it transgresses the Federal interest.

The CHAIRMAN. I thank the gentleman.

The Chair yields to the gentleman from Connecticut.

Mr. MCKINNEY. I thank the gentleman for being here. I have no questions.

The CHAIRMAN. The time of the gentleman has expired.

The gentleman from the District of Columbia?

Mr. FAUNTROY. Thank you.

I have one comment and one question. First, I agree fully with what the Mayor and you have stated in his behalf.

Second, let me say I do not take lightly the concerns to which Congressman Wilson referred and which Congressman McKinney and other Members of the House have raised about rent control and conversion limitations that we have in the city.

I want to invite you to work with our offices in evaluating the rent control provisions in suburban jurisdictions by which we protect persons on limited income by permitting rental increases for those who would, by virtue of those rental increases, have to pay more than 25 percent of their income for housing.

RENT SUPPLEMENTS

I think it is worth looking at very carefully and working very closely with Congressman Wilson on such a measure, particularly if it releases the funds that could be of great assistance to us in helping the persons in the city who need rent supplements. As I recall, last year, when Mr. Wilson was chairman of the subcommittee, we were talking about some $20 million, were we not?

Mr. WILSON. Twenty.

Mr. FAUNTROY. $20 million in rent supplements.

Again, I want to thank the gentleman. He is a fine Member from Texas. I am very pleased with the suggestion that we may be able to effect a quid pro quo.

Thank you.

The CHAIRMAN. Are there any questions from counsel for the majority, counsel for the minority? If not, Mr. Moore, I would like to thank you very much and also recognize the presence of our former staff person, Miss Barbara Washington.

Thank you very much for being here.

Ms. WASHINGTON. Thank you. I was beginning to wonder whether you had finally accepted the fact that I am on the other side.

The CHAIRMAN. Very difficult for us to do.

Thank both of you.

The next witness is the Honorable Arrington Dixon, Chairperson of the City Council.

We would like to welcome you before the committee.

STATEMENT OF HON. ARRINGTON DIXON, CHAIRMAN, CITY COUNCIL, ACCOMPANIED BY LARRY MORRELL, COUNSEL

Mr. DIXON. Mr. Chairman, it gives me great pleasure always to appear before you and without any of the other distractions that sometimes pull us away at the local level. I always welcome the opportunity to come before you on the issue that you are very sensitive to relating to the District of Columbia and particularly, as you mentioned, the urban crisis collectively.

I hope to have an opportunity to come back before you during your continuing work in that urban crisis area, not only as the Chairman of the District of Columbia Council, also as a member of the National League of Cities Board, a group that I urged to come before you and testify when they thought it was a local kind of concern. I made it clear to them it was not. The mayor of St. Louis came before you in that regard.

The issue being discussed before us today is really a broader issue than the approval or disapproval but in fact that is technically the issue before us, whether this particular resolution of approval or disapproval should be accepted or not.

OPPOSES HOUSE CONCURRENT RESOLUTION 420

I would certainly as Chairman of the Council speak very, very strongly against a resolution to disapprove. I think that the record is very clear by you, by our very fine delegate and by others as to why in fact this would be an abridgement of our home rule authority and in fact there is, I believe, some serious issues here, but I think they are not in fact Federal interest issues that should therefore be disapproved or dealt with by this body.

I would like to submit my entire statement, along with some other documents, for the record.

[The statement follows:]

PREPARED STATEMENT OF HON. ARRINGTON DIXON, CHAIRMAN OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

OPPOSES HOUSE CONCURRENT RESOLUTION 420

Mr. Chairman, members of the committee, I appreciate the opportunity to testify today. The proposed resolution to disapprove the act passed by the Council that would regulate the conversion of rental housing to condominiums is a serious mistake, in my opinion. The approval of this resolution would compromise the Home Rule authority granted by the Congress in the District of Columbia Self-Government Act. It would frustrate the will of the people of the District of Columbia as expressed by their elected representatives, and would inject the Congress into an area of purely local concern where there is no federal interest whatsoever. It would set a precedent that could result in Congressional involvement in virtually every aspect of local affairs in the District of Columbia—something the Home Rule Act was designed to prevent.

COUNCIL ACT 3-204

Let me first be clear about the purpose of the Council's legislation. The District of Columbia, in common with virtually every large city in this country, is experiencing a serious shortage of rental housing at affordable prices. This problem is particularly acute in the District of Columbia because we are in entirely urban area, with very little unused land. Moreover, we are home to more than our proportional share of the people in this region who are dependent on the rental housing market, such as the poor and elderly, and young adults starting life on their own.

There are no ideal solutions. We are well aware of the fact that some steps taken by the District of Columbia Council, including rent control and a moratorium on

condominium conversions, are controversial. But we have a genuine concern that if we permit rents to rise freely, or if we allow rental properties to be converted to other housing without restriction, the only rental housing available will be so expensive that only the wealthiest of our citizens will be able to afford it. We are not comfortable with the notion that only the wealthy can afford to live in the District of Columbia.

We have searched for solutions. There is no unanimity of opinion about these solutions, even among members of the Council. Nevertheless, this bill is our good faith attempt to deal with the situation. It is not a far fetched solution; on the contrary, it is patterned closely on similar laws passed by the cities of San Francisco and New York. If this bill were to be disapproved by resolution of Congress, our best prediction is that some 10,000 current rental units will disappear from the market. Such a situation, in our view, when the vacancy rate in rental housing is already less than 2 percent, would be catastrophic.

HOME RULE

There is another reason, however, why Congress should not pass this resolution of disapproval. Passage of this resolution would say to the residents of the District of Columbia that Home Rule is really an illusion, and that Congress had no serious intention of letting the citizens of the District of Columbia govern themselves.

We all know that Home Rule in any event is only a partial reality. Congress has kept control of the purse strings. Congress has maintained its absolute right to disallow any statute passed by the District of Columbia. Certain topics are not subject at all to the legislative authority of the District of Columbia. Despite these expressed limitations, there is an expectation on all sides that in pratice the District will handle its local affairs, that Congress will become involved only where federal properties are concerned, where there are matters of great importance to the federal government, or where the District is dealing with matters affecting foreign embassies and international organizations. To date, as you know, Congress has only once disapproved a statute of the District of Columbia, and that had to do with the placement of the chanceries of foreign governments.

NO FEDERAL INTEREST

The condominium conversions act is not in this category. It has no effect on federal property or on the federal interest. It does not affect foreign governments in any way. It is purely a matter of local concern—a concern that has been addressed loudly and vociferously, by landlords, tenant organizations, and other interested groups. By passing the proposed resolution of disapproval, Congress would become immediately embroiled in a local issue of considerable passion. I personally do not believe that Congress ought to or wants to get involved in matters of this kind. I know myself, having sat through hours of hearings and reviewed mountains of statistics and testimony, that this is an extraordinarily complicated and important social issue. The District of Columbia deserves the right to try to solve the problem itself. We recognize that Congress has the power to disapprove all of our laws, including this one, but if Home Rule is to mean anything at all, it must allow us the opportunity to make these kinds of decisions ourselves.

Thank you very much.

The CHAIRMAN. Without objection.

Mr. DIXON. I would like to make a few additional comments, though. Since my statement clearly speaks to the matter of disapproval or approval by, I have summarized and said I clearly would oppose the approval of this resolution. I, in fact, would like to follow some of the thinking of the very, very distinguished colleague of yours, Congressman Wilson from Texas, for I want to thank him, for by raising this particular issue he has surfaced before the public, I think, one of the most crushing and problematic concerns of the District of Columbia and other urban cities. I think it is somewhat courageous that he comes before us as a public official, politician, admitting he might not have votes to carry the measure forward but he in fact wanted to raise the issue as he did.

RENT CONTROL

I would point out to him and to others who are here that there have been at least three pieces of legislation introduced before the Council of the District of Columbia that deal with the matters that I think he and others within this forum support, concerns about, balanced concerns about rent control, particularly the area of luxury units, as well as vacancy decontrol, as well as other issues that are concerning us in the area of rental housing.

I think those measures have been brought forward but in fact a requirement for those measures to go through, I believe, by the District government and the citizens of the District is that there be some kind of good faith effort to support a subsidy program.

Congressman Wilson has, among a very few voices, frankly, made it clear that he would support and would work to get support for that, but in fact there is some doubt in the community—and I have some sympathy for that doubt—as to whether or not that would be an ongoing commitment or whether it would be a short, single budget cycle commitment to such an effort.

RENT SUBSIDY

I think if we as a local government could in fact feel there could be a stronger, longer range commitment to the kind of subsidy program discussed, there may be a form, a political environment that would allow us to pass one of the measures that is already before the Council of the District of Columbia. Bills that have been sponsored by me, another by Mr. Kane, another by Mr. John Wilson, author of this particular piece, are pieces that I think reflect some balance.

But they have with them a requirement that there be a long-range commitment to the tenants and people that we want to protect, particularly old and lower middle class people who are not protected now, given the lack of money for subsidy and given some of the protections that this bill does try to provide.

That concludes my statement. I am prepared to answer questions.

The CHAIRMAN. I would like to ask you for the record the same four questions so the record is complete.

Do you believe that the subject of Council Act 3-204 is a proper subject for Council consideration under the legislative power delegated to it by the Congress under the Home Rule Act?

Mr. DIXON. The answer is yes, and I have given you more complete responses to those questions in writing.

The CHAIRMAN. Do you believe that Council Act 3-204 contains any provision which is prohibited by the limitations of the Home Rule Act?

Mr. DIXON. No, I do not.

The CHAIRMAN. Do you think any provision of Council Act 3-204 violates the U.S. Constitution?

Mr. DIXON. No, I do not. I think there are some areas that may be challenged, but I think those areas are without merit

The CHAIRMAN. Do you think any provision of Council Act 3-204 specifically transgresses the Federal interest and, if so, in what way?

Mr. DIXON. I think the answer is no, but with a caveat, that the urban concern that you have articulated so well and that others have mentioned, particularly Congressman Wilson and Congressman Fauntroy and others, do in fact have national kinds of concerns. But in terms of the disapproval resolution, I think it is inappropriate and therefore it is not within the Federal interest.

The CHAIRMAN. I thank the gentleman.

[The information referred to follows:]

Mr. DIXON. Chairman Dellums has been given four questions by his staff to ask to each of the witnesses this morning. Here are the questions and the responses I suggest:

Question. Do you believe that bill 304 (222, the condominium bill), is a proper subject for Council action?

Answer. Yes. Section 302 of the Home Rule Act gives the Council general legislative powers as to "all rightful subjects of legislation within the District" subject to the limitations in the Act itself and in the Constitution. None of the limitations in the Act (sections 601, 602, and 603) relate to this area. Section 601 reserves to Congress the general right to legislate for the District, which we do not deny in passing this act. Section 602 contains a series of specific exemptions, none of which are relevant here—such as taxing U.S. property or commuters, changing the jurisdiction of the Courts, etc. Section 603 places limitations on the power of the District to borrow money. Our general authority as a legislature is without doubt broad enough to regulate the use of real estate in the District.

Question. Do you belive that any provisions of the condominium act are prohibited by the Home Rule Act?

Answer. No, for the reasons given above.

Question. Does any provision of the bill violate the Constitution?

Answer. No. There are some areas that may be subject to challenge on Constitutional grounds, but we are confident that the act will be upheld. Several of the provisions of the act put rather severe limitations on what a property owner may do with his property. For example, the bill gives a guaranteed life tendency to elderly tenants when a building is converted from a rental property to a condominium. But similar severe restrictions on property owners have been passed in many states and generally they are upheld in the Courts.

Question. Do you think any provision specifically transgresses the Federal Interest?

Answer. No.

NOTE.—Charlie Wilson will probably answer this question yes, and say that our policies are eroding our tax base, which will mean that we will call for a larger Federal payment. The answer to this is that the Federal payment is not based on what the city receives in taxes, but rather on what services the City provides to the Federal Government. Moreover, the same argument could be made any time the City legislates some benefit for its citizens that will cost money.

The CHAIRMAN. The Chair yields to the gentleman from Connecticut.

RENT SUPPLEMENTS

Mr. MCKINNEY. I would like to welcome the Council Chairman. Are you going to do any more? Is anyone down in your shop doing ongoing studies of a supplemental program?

Mr. DIXON. We have two pieces of legislation now that are in the housing committee, three pieces actually. One is a very, very restrictive rent control, basically an extension of what we have now. Another is a subsidy piece that was in fact introduced, and another is a bill that contains subsidy and a number of other measures.

So the answer is yes, we are going to be doing more. And in fact both of those bills, I know certainly one of them, deals with even this area of condominium conversion and takes a different look at it.

Mr. McKINNEY. We have a great many condominium conversion bills in the housing subcommittee. It is the opinion of the Chairman that it is not a national issue. So I guess you can forget about national help on that subject because the chairman usually has his way.

Have you considered at all having a rent control law that exempts new construction?

Mr. DIXON. The legislation that I introduced in my first term had it, the legislation I have introduced this term has it. So the answer to your question is at least one member of the Council. I also act as Chairman so I have to operate in many different ways as you know, Congressman McKinney. Yes, the answer is we are considering it. The issue has been raised.

Mr. McKINNEY. Not in this current law, though, is it?

Mr. DIXON. Not in this bill.

Mr. McKINNEY. Because within the prohibition that Chairman Dellums and I were discussing that Congress passed against rent control we did exempt new construction.

As I say, I am standing on your side but we are going to have some problems.

Mr. DIXON. Congressman, I think Congressman Fauntroy has already focused this for us. He mentioned that there is sort of a requirement here, there is ground here for coming together. I think we need the support for subsidy. We have a recognition that might require we come up with legislation that we can possible market politically at the local level. But that subsidy has to have some kind of ongoing commitment.

I don't think the community, not just because it is not political, because it is not wise to bind to something that would be a one-shot support effort in terms of dollars.

Mr. McKINNEY. That is right. It is not going to be easy. You are going to have to have some serious caps on it. I was one of those that went out sailing into the middle of the legislative road in what is commonly referred to as section 8. It looked very simple. That is rental assistance. But without a cap we are in terrible trouble.

For instance, my newest one which I dedicate on Sunday, senior citizens housing in Stamford, the acceptable rent for a one room apartment is $575 a month and so we have committed Uncle Sam to pay probably about $400 to $420 a unit for 30 years. That will only increase.

Section 8 is going to have troubles on the floor over here because everyone just realizes we are looking at the tip of an iceberg and more and more and more of our authority is being soaked up by this one program.

Mr. DIXON. The bill I introduced has a cap on it and received—I am not sure whether this is first significant—has received the endorsement of the Washington Post in an editorial but was not read for a number of reasons which I hope can be altered while we consider rent control legislation and modifications even to this as we go forward in the Council.

Mr. McKINNEY. I think that is politically wise. So we can defend you, again, by saying you are not being irresponsible. Maybe one of

these days we could stop this whole nonsense. But we are stuck with it for now.

The CHAIRMAN. The gentleman from the District of Columbia.

RENT SUPPLEMENTS

Mr. FAUNTROY. I add my commendations to the witness for his clear, sharp answers to the questions raised. I look forward to working with you to see if we can't come up with a basis for meeting the rent supplement needs of some people in our city and at the same time protect those who are on limited income from unwarranted and unnecessary rent increases.

Thank you.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Dixon, we would like to thank you very much for coming before the committee and making your presentation. You have made a significant contribution to these proceedings.

Mr. DIXON. Thank you very much.

I also indicate I have been joined by General Counsel Larry Morrell who recently joined our Council as a lawyer and who worked with this legislation to try.

The CHAIRMAN. The Chair would like to note we have received correspondence from the Washington Board of Realtors. We regretted they were not afforded an opportunity to present their views personally but they have submitted a detailed statement on their views and without objection it will become part of the permanent record.

[The board's letter follows:]

WASHINGTON BOARD OF REALTORS, INC.,
Washington, D.C., September 3, 1980.

Hon. RONALD V. DELLUMS,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN DELLUMS: I regret that representatives of the Washington Board of Realtors are not afforded an opportunity to present their views personally at the September 4 hearing on the D.C. Condominium Conversion law.

Lacking that opportunity, I am writing to give you and the members of the Committee on the District of Columbia the perspective of owners and managers of multifamily housing in the District of Columbia who will be affected if this legislation becomes law.

Although you might not be able to tell by reading our condominium laws, many of us are citizens and residents of Washington; and we feel that we should have some rights at least comparable to those granted to tenants by our local government.

We are just as concerned about the housing picture as our City Council claims to be, and it is our contention that the Council is approaching the housing situation in precisely the wrong way.

Finally, we are also American citizens and taxpayers. In that capacity, we approve of your intention to place the District's condominium legislation under close scrutiny.

It is one thing to insist on home rule, even when—as we believe—our municipality chooses to injure itself with unwise legislation. However, since the Federal Government is called upon to give financial support to Washington, D.C., the taxpayers are entitled to be concerned when the city continues to harm its own tax base.

When the law is examined, first of all, on its own merits, it is hard to see how any reasonable person could say that it is logical or fair in any respect. For example, the wording of the bill alleges that one of its major purposes is to protect the needy. However, included in its definition of needy tenants are all persons 62 years of age or older, with annual incomes up to $30,000, who will be granted lifetime estates in their units.

If a building is to be converted to condominium or cooperative status, the owner must pay a fee to the city equal to four percent of the declared sales price. Even tenant organizations which own their building must pay this, although they can pay a portion as each unit is sold.

Assuming that one could or would pay such a fee, the effect would be to deprive the owner of part of a fair profit or to raise the price of home ownership for unit purchasers—or both. The alleged justification is that the city would use the money to help displaced tenants.

Since there probably won't be any conversions, there won't be a need for the special fund. If there were such a need, though, it should be an obligation for the entire community—not just for developers and unit owners.

Conversions will not be allowed unless more than 50 percent of the tenants vote their approval. Note that owners can't sell their property without permission of people who do not own it. Tenant organizations also have the right to purchase the building, but the procedures of such a transaction (as outlined in the ordinance) guarantee that the owner will be put at a disadvantage.

In case anyone has difficulty interpreting the blatant purpose of the law, the section on statutory construction makes it abundantly clear. It states: "The purposes of this act favor resolution of ambiguity by the hearing officer or a court toward the end of strengthening the legal rights of tenants or tenant organization to the maximum extent permissible under law."

It is not likely that a court would strengthen tenant rights by upholding an ordinance that denies due process of law to owners, violates the concept of equal protection under the law, and constitutes a taking of property without fair compensation.

The current local government has an unfortunate tendency to involve the District unnecessarily in costly litigation that it is bound to lose. Before voting this ordinance, the City Council repeatedly enacted condominium regulations in the form of emergency legislation, until the court ordered an end to the illegal practice.

If citation of one more example of the statute's bias may be permitted, it should be pointed out that the Mayor is supposed to review the situation each year, to determine whether the law is still needed.

However, the statute directs him to decide that it is needed whenever the annual production of new subsidized housing accommodations falls below 10,000 units. This amount of new units has never been produced during one year in Washington, even if unsubsidized housing is included. Obviously, the drafters of the law were well aware of that fact.

Of course, when the subject of discussion becomes the construction of new units, we are actually getting closer to the heart of the matter. While there are indeed some housing problems in the District, the Council has used questionable methods in assessing the problems, faulty premises in analyzing the ramifications, and counterproductive methods in attempting to find solutions.

The Council states that vacant rental units amount to less than five percent of the total of such units, thereby constituting an emergency. Previously, the Council has stated that a three percent figure was an emergency.

The point is that no one really knows what the true vacancy factor is. Furthermore, in view of the constant turnover among tenants in Washington, it would appear that most people are, in fact, finding a place to live. Units that are occupied do become vacant as the occupants move to other units which, in turn, have been vacated by their occupants. Turnover would not occur as rapidly, if the shortage were as bad as the Council claims.

What about the fear that conversions drastically reduced the number of rental units available? As the recent HUD study found, many units soon return to the rental market; and many of those who purchase units are, after all, former tenants who no longer are looking for rentals. Thus, the net loss of rental units is much smaller than commonly believed.

Additionally, HUD pointed out that the conversion phenomenon is being furthered by the demand for home ownership. The community benefits, also, since the assessed value of condominium units exceeds the assessed value of rental units. Therefore, any law which restricts conversion will also keep the tax base from improving.

Supposedly, this law is justified by the finding that 43,521 households in Washington need housing assistance. That is the same sort of faulty reasoning used to support our repressive rent control act. The City Government does not choose to have the entire population of the District help the 43,521 households. It will be the responsibility of the owners of rental property only.

The Council has discovered that not enough new rental units are being built. Rather than acknowledge that the present rent control law has deterred construc-

tion, they have passed their new restrictive legislation. The result can only be that more units will be removed from the market—if not by conversion, then by poor maintenance (since owners can't afford repairs) and eventual abandonment.

In the meantime, apartment house owners will seek real estate tax abatements, based on rising expenses and a cap on gross rental income. This means that the total tax base not only does not grow (through conversions) but that the existing total is also adversely affected by rent control.

Even though no one knows exactly how many units are needed, all parties can agree that the District of Columbia needs more rental units. What the Council should do is to concentrate on encouraging new construction and to investigate programs that help production, rather than devote all its efforts to unrealistic and harmful controls and conversion regulations.

Real estate investors and builders only have to look across the river to Fairfax County, in order to see a contrasting local response to housing needs. The county board of supervisors appointed an expert study commission to look into the question of condominium conversions. The commission's report has been presented, and Fairfax County has been headed in the right direction.

The study calls for recognition that the only way to get more rental units is to help preserve the existing supply and encourage the production of new housing. A plan for direct county aid to owners of rental housing and aggressive utilization of state and federal programs has been outlined.

Fairfax County should be congratulated for its enlightened attitude. On the other hand, it must be mentioned that the county may only pass laws within a framework established by a higher governmental authority—the State of Virginia. Since Virginia did not allow Fairfax County to rush into unwise measures based on panic or misconceptions, the county devoted its efforts to investigating the positive measures that could be taken.

We have a somewhat analagous situation facing us. Home rule is a fine idea, but it is based on the theory that the local government will know what is best for its citizens and will act accordingly. In this case, our local government apparently does not know what is best and clearly has not acted in its citizens' best interests.

Regretfully, it must be said that Congress should step in and pass the resolution of disapproval. When the District of Columbia gets around to enacting positive housing programs, it may very well have to approach the Federal Government for more financial assistance.

The fact is that the District is already constantly coming to Congress for more money. It makes no sense for Congress to finance destructive measures such as the administration of rent control and condominium conversion restrictions.

The American taxpayer has the right to feel that the District is at least making its best effort and is taking sensible approaches toward solving its housing problems.

Thank you for your attention.

Sincerely,

KENNETH J. LUCHS,
President, Washington Board of Realtors.

The CHAIRMAN. We have also received testimony from Council member John Wilson who specifically addressed the issue of House Concurrent Resolution 420. Without objection that will become part of the permanent record.

[Mr. Wilson's statement follows:]

PREPARED STATEMENT OF COUNCILMEMBER JOHN A. WILSON, COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. Chairman and members of the Committee, thank you for allowing me this opportunity to share with you my views on the importance of the Congress of the United States allowing enactment of the "Rental Housing Conversion and Sale Act of 1979", D.C. Act 3-204. My name is John A. Wilson and I represent Ward Two on the City Council and I am the main sponsor of the "Rental Housing Conversion and Sale Act of 1979".

To understand how crucial it is that we implement strong controls on conversion of our rental units to condominiums and cooperatives, a history of conversions in the District may be helpful.

TREND TO CONVERSIONS

Historically, residents of this city, have rented their homes. 1970 census figures show that only 28 percent of our residents owned their own homes, while the

remaining 72 percent were renters. Since 1970, however, it has become more and more difficult for renters in this city to find decent, affordable rental housing. The disappearance of rental housing was the result of many factors . . . from demolition under urban renewal, conversion to commercial uses and later what was to become the major threat . . . conversion to condominiums and cooperatives.

The trend to conversion of rental buildings to condominiums in the District of Columbia began in 1974. The beginning of condominiums as a form of home ownership in the District brought with it two separate issues:

(1) What protections, disclosures and warranties should be offered to the public buying condominum units; and,

(2) What type of protection should be offered to those who may be displaced by the conversion of their rental unit to a condominium?

CONDOMINIUM LAW OF 1976

In the summer of 1975, the Council's Committee on Housing began to address these issues. What was the final result, after months of temporary moratoriums on conversion, was the Condominium Law of 1976, passed by the Council in the summer of 1976. While the major part of this law deals with procedures, disclosure and warranties that condominium developers must provide to buyers, Title Five of this law attempted to deal with imposing controls on the conversion of existing rental housing by allowing conversions in only three instances:

The first instance was if the building were a high rent building. In 1976 "high rent" was defined as rent higher than: $162.50 for an efficiency unit; $212.50 for a 1-bedroom unit; $267.00 for a 2-bedroom unit; and $375.00 for a 3- or more bedroom unit.

The second way a building could convert was if it were not a "high rent building", but at least a majority of the tenants agreed to the conversion.

The third way a building could convert was also if it were not a "high rent" building and the vacancy rate for apartment units not in "high rent" buildings was more than 3 percent.

Under these regulations, conversions became most prevalent under the "high rent" provision. Administratively, the "high rent provision" was implemented with a 4-step process for the potential converter:

1. Application to the Department of Housing and Community Development for a certificate of eligibility. This application made the landlord show his rents were high enough to qualify the building for conversion;

2. If the potential converter qualified, the Department of Housing and Community Development would issue a certificate of eligibility;

3. The third step was registration of the building as a condominium. When a potential converter went to this step in conversion, it meant he was serious about converting the building since an application for registration required that the potential converter have spent time and resources fulfilling the requirements of providing warranties, disclosure statements, structural engineering reports and paying a fee for registering each unit.

4. The fourth and final step on the road to condominium conversion was review and acceptance by the Department of Housing and Community Development of the potential converter's registration.

Over the years the Council periodically updated the amount of rent considered "high rent". Today the figures are: $221.00 for an efficiency unit; $267.00 for a 1-bedroom unit; $314.00 for a 2-bedroom unit; and $408.00 for a 3 or more bedroom unit.

Apart from the fact that these figures never kept pace with the rent increases allowed under the Rental Housing Act and over the years more and more buildings became eligible for conversion to condominiums under the high rent provisions of the Condominium Law, I believe there is a fallacy in the idea that just because an individual pays a certain amount a month in rent that they are well-off financially and can afford to take care of themselves in an open real estate market. The truth and tragedy is that many people living in so-called "high rent" buildings are our elderly living on fixed incomes and are barely able to make ends meet. The other problem is even those able to afford to move an pay more rent are unable to find alternative housing in their neighborhoods because most of the buildings are converting or under the threat of conversion.

CONVERSION TO CONDOMINIUMS

Between 1975 and May of 1979, over 6,000 rental units were converted to condominiums. During that same period of time nearly 1,000 were converted to cooperatives. While there are approximately 160,000 privately owned rental units in the

city, the large majority of these conversions took place in one small area, that portion of the city west of 15th Street, N.W. and the new Southwest. So while appearing perhaps to be a negligible portion of the city's entire rental housing stock, conversions were becoming a frighteningly large portion of the housing stock in our Foggy Bottom and Dupont Circle neighborhoods, as well as along the Connecticut Avenue and Wisconsin avenue corridors and urban renewal Southwest.

By April of 1979, in addition to the 6,000 plus condominium conversions that had already occurred and the 1,000 plus cooperative conversions that had already occurred, landlords had certificates of eligibility for conversion to condominiums for nearly 11,000 rental units and certificates of exemption for cooperative conversion for an additional 1,000 plus rental units and 4,000 units had certificate of eligibility applications pending. Again, the majority of these certificates were for rental units in that area of the city west of 15th Street and in Southwest and represented nearly 30 percent of the existing private rental housing stock in these neighborhoods. The largest percentage of our elderly population lived in these neighborhoods. Clearly it was time to act.

In May of 1979 the Council passed legislation putting a temporary ban on conversions that were not already well through the existing process. This legislation was designed to serve two purposes: (1) maintain the status quo and (2) set up a Commission to gather information and report to the Council on recommendations for permanent methods to control conversions.

COUNCIL ACT 3-204

Each of the major titles of 3-204 are a calculated response to six years of experience with conversions in the District of Columbia pulled together by the Commission, my staff and the staff of the Council's Housing Committee.

The main provisions of title II governing conversions, allow majority tenant consent before a conversion can take place. And, because recent history shows us that tenant consent will not necessarily preclude conversions, there are provisions to protect the elderly when a conversion does occur by requiring they remain as renters under rent controlled rents for the three-year life of the bill. Title III provides for housing relocation payments and housing assistance payments for low and moderate income tenants who may be forced to move after conversion to be funded by the 4 percent conversion fee in title II.

As you are probably aware, because of the tax implications, the vast majority of rental housing owners sell their buildings rather than convert themselves. Since tenants in the District were given the first opportunity to purchase multi-family buildings in 1978, quite a number of tenant associations have been successful in doing this. Because of these two factors it is expected that a majority of future conversions will be by tenant associations and therefore title IV of the legislation provides clear guidelines for tenant purchase.

While "The Rental Housing Conversion and Sale Act of 1979" may not fit the needs of Louisville, Kentucky or Houston, Texas, it is a direct response to a serious threat to the rental housing stock in the District of Columbia. Without this law, we revert to the old high rent conversions with nearly 16,000 units of rental housing ready to convert. It we are to retain any multi-family rental housing in the Northwest and Southwest sections of this city, the Rental Housing Conversion and Sale Act must be allowed to become law. Thank you.

The CHAIRMAN. The Chair would note there are a number of representatives of various organizations who I am sure, if provided the opportunity, would provide specific testimony on either side of this question.

The Chair would simply state to those persons that we will keep the record open and in the event any of you choose to submit a statement in writing, it will become a part of the permanent record.

VOTE ON H. CON. RES. 420

Finally, the Chair has consulted with my colleagues, also consulted with the gentleman who introduced the resolution of disapproval, Mr. Wilson, and we have concluded that the matter can be resolved this morning. So the Chair would yield to the gentleman from the District of Columbia for an appropriate motion.

Mr. FAUNTROY. Mr. Chairman, I move that the committee disapprove House Concurrent Resolution 420 sponsored by the gentleman from Texas.

The CHAIRMAN. Is there a second?

Mr. MCKINNEY. Second.

The CHAIRMAN. All in favor of the motion signify by saying "Aye."

Those opposed?

The ayes have it. The resolution of disapproval fails.

The committee stands in adjournment.

[Whereupon, at 11:53 a.m. the committee adjourned.]

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DATE DUE